



منظمة الأغذية
والزراعة
للأمم المتحدة

联合国
粮食及
农业组织

Food
and
Agriculture
Organization
of
the
United
Nations

Organisation
des
Nations
Unies
pour
l'alimentation
et
l'agriculture

Продовольственная и
сельскохозяйственная
организация
Объединенных
Наций

Organización
de las
Naciones
Unidas
para la
Agricultura
y la
Alimentación

COUNCIL

Hundred and Thirty-seventh Session

Rome, 28 September – 2 October 2009

REPORT OF THE 88th SESSION OF THE COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS (CCLM) (23 – 25 September 2009)

I. INTRODUCTION

1. The Eighty-eighth Session of the Committee on Constitutional and Legal Matters (CCLM) was held from 23 to 25 September 2009. The Session, open to silent observers, was chaired by Mr. Julio Fiol (Chile). The Members of the Committee listed below were represented:

**Chile, Gabon, Indonesia, Lesotho, Netherlands
and United States of America**

2. The CCLM noted that because the process of negotiation within the Contact Group on the reform of the Committee on World Food Security had taken longer than anticipated it had not been possible to prepare a document setting forth the proposed amendments to the Basic Texts regarding the reform of the Committee on World Food Security. The proposed amendments would be reviewed by the Committee on Food Security and subsequently referred to another session of the CCLM, to be held at the end of October 2009.

II. ETHICS COMMITTEE

3. The CCLM noted that document CCLM 88/2, “*Ethics Committee*”, had been prepared in response to action 3.34 of the Immediate Plan of Action (IPA) and that both the Finance Committee and the CCLM were required to review the document. The CCLM noted that, at the Hundred and Twenty-eighth Session of the Finance Committee in July 2009, a proposal had been made to the Finance Committee that the issue of the terms of reference and proposed membership of the Ethics Committee should be addressed in the context of a United Nations wide system process in light of United Nations General Assembly Resolution 63/250, and once the Ethics Officer had become operational. While stressing that it had been asked to review the document by the IPA, the Finance Committee decided to keep the matter open and review the matter again at one of its forthcoming sessions.

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4. Insofar as the CCLM had been asked to examine the proposed Terms of Reference and composition of the Ethics Committee, the Committee considered that it should examine document CCLM 88/2. The CCLM concurred with a few proposed amendments to the terms of reference of the proposed Ethics Committee made in the course of the discussions. The proposed terms or reference as amended by the CCLM are set out in Appendix I. The CCLM observed that the terms of reference would be adopted through a Director-General's Bulletin and subsequently incorporated into the Administrative Manual of the Organization.

5. The CCLM stressed, as mentioned in document CCLM 88/2, that experience on the ethics function within the United Nations system was still very limited, and therefore, it was essential to keep the function under review. In particular, the CCLM concurred with the secretariat's proposal that the functioning of the Ethics Committee should be kept under review and that its Terms of Reference should be adjusted as appropriate in light of the experience gained. The CCLM concurred with this pragmatic approach taken to implement IPA action 3.34.

6. The CCLM noted that the proposed Terms of Reference of the Ethics Committee would be reviewed again by the Finance Committee.

III. 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

7. The CCLM examined document CCLM 88/3 "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" prepared in response to IPA action 2.69. The CCLM observed that the review was related to other IPA actions as well as to the recently concluded independent evaluation of FAO's Work on International Instruments that had been reviewed by the Programme Committee.

8. The CCLM noted a range of observations of a general nature regarding the scope of the review which concerned mainly bodies established by treaties under Article XIV of the Constitution, although other bodies established under Article VI of the Constitution, such as the Codex Alimentarius Commission, could also benefit from facilities foreseen in the preliminary review. The CCLM noted the particular nature of bodies established by agreement concluded by the Conference or the Council under Article XIV of the Constitution. These bodies are set up by treaties but, at the same time, are placed under the framework of FAO, operate through FAO and are subject to operating rules and procedures of the Organization. In a number of past submissions to the Governing Bodies on such statutory bodies, and consistent with Part R of the Basic Texts entitled "*Principles and procedures which should govern conventions and agreements concluded under Articles XIV and XV of the Constitution and Commissions and Committees established under Article VI of the Constitution*", reference had been made to the fact that they enjoy functional autonomy, although they are placed under the framework of FAO and are administratively linked to the Organization.

9. In line with earlier deliberations on this matter, the CCLM recognized that these statutory bodies should enjoy as much flexibility and functional autonomy as was compatible with the fact that they are placed under the framework of FAO and was necessary for the accomplishment of their mission. In some cases, FAO and the Director-General exercised substantial responsibilities in respect of these bodies.

10. The extent of the functional autonomy of bodies under Article XIV of the Constitution depends on a range of combined factors such as, *inter alia*, the provisions of their constituent instruments and operating requirements in light of their objectives and funding modalities, in particular the extent to which they are financed by contributions of Members. The CCLM

concluded with the view that, given the highly differentiated nature of statutory bodies, in line with IPA action 2.69, there would be a need to determine which statutory bodies would be eligible for the facilities proposed in the document. This should be done taking into account primarily the views of the Members, the nature of the activities exercised and the status of the bodies in question, especially as regards the extent to which the body is financed by an autonomous budget.

11. The CCLM agreed with a number of conclusions of the review, including its preliminary nature, the desirability that some recommendations should be referred to other Governing Bodies of FAO, and the fact that they could ultimately require a review of Part R of the Basic Texts. The CCLM agreed that the observations and recommendations regarding possible areas where statutory bodies could exercise greater administrative and financial authority were of a differentiated nature. The implementation of some of them was a matter within the authority of the secretariat and could be implemented easily, whereas others were of a more complex nature or could require a decision by relevant Governing Bodies, while other actions could be considered further by the relevant statutory bodies.

12. The CCLM agreed with the recommendations regarding attendance at external meetings by secretaries and other staff of relevant statutory bodies and the conclusion of arrangements with other organizations and institutions. As regards the latter issue, the CCLM noted that the matter had already been addressed by the Council at its Hundred-and-Twenty-seventh session in October 2004. The CCLM noted that the secretariat would formulate proposals for a procedure for the conclusion by secretaries of arrangements with other organizations and institutions which might, in future, need to be reflected in revised Part R of the Basic Texts.

13. The CCLM noted the observations regarding budgetary and financial issues, as well as human resources matters, including matters pertaining to staff in the Professional and higher categories, staff in the General Service category, contractual arrangements for personnel and other contractual arrangements. In this connection, the CCLM observed that, consistent with the spirit and letter of paragraph 32 (iii) of Part R of the Basic Texts, in the case of bodies having autonomous budgets the constituent instruments may specify that the secretaries could be appointed by the Director-General after consultation with, or with the approval or concurrence of, the Members of the body concerned. Procedures for the implementation of these provisions were reviewed by the CCLM and the Council at its Hundred-and-Twenty-seventh session in October 2004, which concluded that they were not objectionable.

14. As to other observations regarding budgetary, financial issues and other human resources matters, the CCLM recommended that they be addressed through the Finance Division, the Human Resources Division and the Finance Committee as required. In this regard the CCLM noted that some issues were related to the process of implementation of International Public Sector Accounting Standards (IPSAS) in FAO. The CCLM also considered that a relaxation of rules on authority of the secretaries to travel within the area of competence of their statutory bodies should be considered.

15. While noting that this was a matter within the authority of the FAO secretariat, the CCLM endorsed the proposal that special rules and criteria regarding handling of official correspondence, especially with heads of national departments, be developed for secretaries of bodies under Article XIV. These could be applied to some bodies under Article VI, such as the Codex Alimentarius Commission.

16. As regards issues pertaining to relations with donors, the CCLM recommended that the matter be further examined by the concerned units of FAO, as well as the relevant Governing Bodies and statutory bodies, as appropriate.

17. The CCLM recognized that insofar as bodies under Article XIV of the Constitution, as well as some bodies under Article VI of the Constitution, organize meetings on a regular basis, issues related to this area were important for these bodies. In light of the considerations described in the document, the CCLM concurred with the secretariat's view that the negotiation and

conclusion of international agreements (“*memoranda of responsibilities*”) prior to the convening of meetings under Rule XXXVII, paragraph 4 of the GRO should continue to be done by the Director-General as these involved important issues pertaining to the status of FAO and its privileges and immunities. The CCLM noted, in this regard, that the Director-General was under an obligation to ensure that privileges and immunities should not be abused.

18. The CCLM considered that the issue of translation of documents of bodies under Article XIV of the Constitution and other relevant statutory bodies could be addressed in the context of the internal study on the role and functions of the FAO language services. The study would also cover the need to ensure quality and consistency of translations and take into account the incremental workload for the secretaries of the bodies concerned to manage direct outsourcing, as well as any other pertinent considerations specific to the statutory bodies.

19. As regards the participation of observers and other stakeholders in meetings of Article XIV bodies and other statutory bodies, the CCLM noted that the matter was a long-standing one which had been raised in the context of the Independent External Evaluation of FAO and the independent Evaluation of FAO’s Work on International Instruments. The CCLM agreed that consideration should be given to the definition of a new policy concerning relations with non-governmental organizations and other stakeholders. The CCLM agreed that the establishment of a new policy on the issue was a matter primarily for the membership at large, which would ultimately involve changes to Parts O, P and Q of the Basic Texts.

20. Pending the definition and adoption of a new policy, secretaries of bodies under Article XIV and other statutory bodies, as appropriate, could implement, in consultation with concerned units of the Organization and the chairpersons of the concerned bodies, *ad hoc* measures for inviting non-governmental organizations and other stakeholders.

21. The CCLM examined the developments contained in document CCLM 88/3 regarding the reporting relationship between statutory bodies and the Governing Bodies of the Organization. The CCLM concurred with the view that the matter raised broader issues that needed to be examined before a course of action could be proposed and, in particular, that there was a need to differentiate among bodies under Article XIV or Article VI on the basis of criteria outlined in the document. The CCLM recommended that the matter be referred to the main concerned statutory bodies which could be invited to clarify which action they expected from the main Governing Bodies of the Organization. On the basis of the views of the statutory bodies and the Governing Bodies, a new policy on the matter could be defined. The CCLM agreed that this new policy might need to be reflected in revised Part R of the Basic Texts.

22. The CCLM expressed satisfaction at the comprehensive nature of the preliminary review and stressed that its implementation should be seen as an on-going process to be carried out in the course of the next few years. The CCLM invited the secretariat to take action in respect of matters within its authority and consult the Governing Bodies, as appropriate. The CCLM emphasized that, in the context of that on-going process, the membership of relevant statutory bodies, with particular reference to bodies under Article XIV or Article VI enjoying substantial functional autonomy, should be invited to consider the preliminary review and offer their views on the issues addressed in the review.

IV. ISSUES ARISING FROM THE REVIEW OF PROPOSED AMENDMENTS TO THE BASIC TEXTS BY THE CONFERENCE COMMITTEE FOR THE FOLLOW-UP TO THE INDEPENDENT EXTERNAL EVALUATION OF FAO

23. The CCLM examined a few questions related to the proposed amendments to the Basic Texts and draft Conference resolutions which were raised by the Conference Committee.

24. The CCLM recommended that operative paragraph 1 (b) of the draft Conference on the implementation of the actions of the Immediate Plan of Action (IPA) for FAO Renewal (2009-11) regarding the Council of FAO should make provision for the Council to exercise a major role in respect of “*monitoring and reporting performance against performance indicators for the Council itself and for other Governing Bodies with the exception of the Conference*”, in order to ensure consistency with operative paragraph 1(a) of the same draft resolution.

25. After an extensive debate, the CCLM recommended that operative paragraph 1 (c) of the draft Conference resolution on the Independent Chairperson of the Council be amended so as to provide that the Chairperson may, as required or appropriate, “*convene informal consultations with representatives of Member Nations on issues of an administrative nature for the preparation and conduct of Council sessions*”. In both cases the changes were incorporated in the relevant draft Conference resolutions.

V. FUTURE STRUCTURE AND ORGANIZATION OF THE BASIC TEXTS OF FAO AND RELATED MATTERS

26. The CCLM examined document CCLM 88/4 “*Future Structure and Organization of the Basic Texts of FAO and related matters*”. The CCLM underlined the importance of this document dealing both with matters pertaining to the future format and presentation of the Basic Texts of FAO, including issues raised in that connection in previous sessions and the process for the review and adoption of the amendments to the Basic Texts for the implementation of the IPA. The CCLM noted that the substance of the amendments had already been endorsed by the Council at its Hundred and Thirty-sixth Session.

27. After a detailed review of the document the CCLM agreed with the following:

28. The CCLM noted that the question of the use of gender-neutral language had been a matter of concern for Members and an important practical issue. The CCLM recalled earlier deliberations on the matter in 1999 by the CCLM, the Council and the Conference which had, at the time, Resolution 7/99 entitled “*Use of Gender-Neutral Language in the Basic Texts*”. The CCLM endorsed a proposal that the Resolution be inserted at the beginning of Volume II of the Basic Texts of FAO, as shown in Appendix IV.G. The CCLM also endorsed the proposal that the secretariat should make such amendments as required, throughout the Basic Texts, to use the words “*Chairperson*” instead of “*Chairman*”, “*Chairpersons*” instead of “*Chairmen*”, “*Vice-Chairpersons*” instead of “*Vice-Chairmen*”.

29. The CCLM endorsed the draft Conference Resolution set out in Appendix II, containing the proposed amendments to the Constitution, and agreed to forward it to the Council for subsequent transmission to the Conference for approval. The CCLM underlined that, in accordance with Article XX, paragraph 1 of the Constitution, this resolution would need to be approved by a two-thirds majority of the votes cast, provided that such majority should be more than one half of the Member Nations of FAO.

30. The CCLM also endorsed the draft Conference Resolution set out in Appendix III containing proposed amendments to the General Rules of the Organization and to the Financial Regulations and agreed to forward it to the Council for subsequent transmission to the Conference for approval. The CCLM recalled that this resolution would have to be approved by a two-thirds majority of the votes cast. The total number of affirmative and negative votes should be more than one half of the Member Nations of the Organization.

31. The CCLM endorsed the resolutions, set out in Appendix IV, on the implementation of the IPA Actions regarding the Conference, Council, Independent Chairperson of the Council, Reform of Programming, Budgeting and Results-Based Monitoring System, and Ministerial Meetings and agreed to forward them to the Council for subsequent transmission to the Conference for approval.

32. The CCLM requested the secretariat to renumber, as appropriate, Rules, paragraphs and sub-paragraphs throughout the Basic Texts, to modify Rule references and to insert footnotes containing references to Conference Resolutions, whenever necessary, as these were tasks of an editorial nature which did not involve any considerations of substance.

33. The CCLM endorsed the proposed overall future structure of the Basic Texts of FAO as indicated in paragraphs 21 (h), (i) and (j) of document CCLM 88/4 corresponding to existing Volume I with the amended instruments and new Volume II, as set out in Appendix IV.G. In this connection, the CCLM noted that some of the Parts currently included in Volume II of the Basic Texts would remain under review and amendments thereto might be required in future. Parts which will likely need to be revised in future are marked with an asterisk. The CCLM also noted that current Part S of Volume II of the Basic Texts would be deleted.

34. As regards the proposed Charter of the Office of Evaluation, the Committee observed that, in accordance with the IPA, this document was to be reviewed by the Programme Committee and the CCLM, be referred to the Council for approval, and subsequently incorporated in Part H of Volume II of the Basic Texts. The CCLM recalled that, at its Hundred and Second Session, the Programme Committee considered that the Charter for the Office of Evaluation should not be finalized until the new Director of Evaluation was recruited and could participate in the process. The CCLM recommended therefore that the Director of the Office should undertake a review of the Charter, that the Programme Committee and the CCLM should review it again prior to its submission to the Council and that, for the time being, it should not be referred to the Council.

35. The CCLM recommended an editorial amendment to the proposed definition of Governing Bodies which would read as follows:

“The Governing Bodies of FAO are the bodies which directly, or indirectly through their parent bodies, contribute within their respective mandates, to (a) the definition of the overall policies and regulatory frameworks of the Organization; (b) the establishment of the Strategic Framework, the Medium-Term Plan and the Programme of Work and Budget and (c) exercise, or contribute to the oversight of the administration of the Organization. The Governing Bodies comprise the Conference, the Council, the Programme Committee, the Finance Committee, the Committee on Constitutional and Legal Matters, the Technical Committees referred to in Article V, paragraph 6 (b) of the Constitution and the Regional Conferences (i.e. for Africa, Asia and the Pacific, Europe, Latin America and the Caribbean, and the Near East).”

VI. PERMANENT COURT OF ARBITRATION CASE N° AA286 – FINAL ARBITRATION AWARD GRANUCO SAL (LEBANON) V. FOOD AND AGRICULTURE OF THE UNITED NATIONS

36. The CCLM examined document CCLM 88/6 entitled “Permanent Court of Arbitration Case N° 286 – Final Arbitration Award Granuco S.A.L. (Lebanon) v. Food and Agriculture Organization of the United Nations” containing a detailed presentation of the case.

37. The CCLM noted that the case involved a situation of failure on the part of a contractor to produce animal feed for Northern Iraq, as a result of which FAO cancelled a series of contracts. The overall level of the claims by the contractor was US\$ 4,434, 107.88 due to the cancellation of Purchase Orders, plus US\$ 3,000,000.00 for alleged damages suffered as a result of harm done to Granuco’s image and reputation, as well as for loss of profit. The CCLM noted that all these claims were denied by the Arbitration Tribunal, except for a limited amount of €45,054.90 representing interests for a delayed payment and some charges which were to be borne by FAO.

38. Aside from the specific facts and legal issues involved, the CCLM noted that the case had to be seen in the context of the Oil-for-Food Programme and the termination of its activities. On 22 May 2003, the Security Council adopted Resolution 1483 addressing a number of issues for the termination of the ongoing operations under the Programme and called upon the organizations to take an active approach towards the settlement of any outstanding claims. The Programme was effectively terminated on 21 November 2003 and all agencies, programmes and funds were urged to return to the United Nations any unused funds which they held. In order to cover potential liabilities arising from the claim, FAO had to withhold some funds from the Oil-for-Food Programme as it was authorized to do under the terms of a Memorandum of Understanding with the United Nations. For a substantial period of time, FAO was confronted with a situation where it could not settle a long-standing claim and had to retain some residual funds to cover a contingent liability. At the same time, FAO was put under considerable pressure to return to the United Nations all residual funds which it held, which became a source of embarrassment in its relations with the United Nations.

39. The CCLM noted earlier deliberations on the issue of the adjudication of disputes arising from commercial contracts through arbitration, in consideration of FAO's immunity from every form of national jurisdiction. The Committee had stressed that, because of inconveniences associated with arbitration, including cost considerations, the Organization should, whenever possible, seek to reach out-of-arbitration settlements of contractual disputes. Still the possibility of resorting to arbitration depended on the particular circumstances of each case and there could be cases involving issues of principle or other issues making it impossible to reach an amicable settlement and making recourse to arbitration inevitable.

40. The CCLM fully supported the approach taken by FAO, especially in refusing to accept any amicable settlement of the claims, which would have been clearly inappropriate under the circumstances. The CCLM considered that, throughout the process, FAO handled the case efficiently and in a prudent and correct manner, with a high sense of accountability for funds held in trust.

41. The CCLM expressed appreciation to the Legal Office and the Organization for the very successful outcome of the arbitration.

VII. INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE – PROCEDURES FOR THE OPERATION OF THE THIRD PARTY BENEFICIARY (ITPGRFA)

42. The CCLM examined document CCLM 88/7 "International Treaty on Plant Genetic Resources for Food and Agriculture – Procedures for the Operation of the Third Party Beneficiary". Part IV of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) established a Multilateral System of Access and Benefit-sharing (MLS), aimed at facilitating access to plant genetic material and share, in a fair and equitable manner, benefits arising from the utilization of that material. The MLS covers resources listed in Appendix I of the Treaty, which are under the management and control of the Parties and in the public domain, as well as others which can be added to it on a voluntary basis. Facilitated access and benefit-sharing are done through a "Standard Material Transfer Agreement" (SMTA) which is a standard contractual instrument approved by the Governing Body of the Treaty at its first session.

43. The CCLM noted that the SMTA was a contractual instrument between two parties, namely a provider (usually a gene bank) and a receiver of genetic material (usually a plant breeder), concluded under the ITPGRFA setting forth rights and obligations applicable to providers and recipients of genetic material within the territory of the Parties, governing the transfer of material, as well as any transfers to subsequent recipients. The SMTA requires a

recipient which commercializes a product incorporating material accessed from the MLS to pay an equitable share of the benefits arising from the commercialization of the product, except when such product is available to others for further research and breeding, in which case the recipient who commercializes the product shall be encouraged to make such payment.

44. In response to an invitation by the Governing Body, the Director-General gave his agreement in principle for FAO to act as Third-Party Beneficiary (TPB) subject to subsequent approval and review of the procedures to be established by the Governing Bodies of FAO. The TPB is a legal concept derived from an English law of contracts whereby a person who is not a party to a contract, but for whose benefit the contract was concluded, has legal rights to enforce the contract.

45. At its session of 2007, the Governing Body requested the secretariat to prepare a draft document setting out the procedures to be followed by FAO when carrying out its roles and responsibilities as TPB taking into account, in particular, FAO's status as a specialized agency of the United Nations and its privileges and immunities, with particular reference to its immunity from national jurisdiction. The Governing Body established an *Ad Hoc* Third Party Beneficiary Committee consisting of seven Members, representing the regions of FAO, with the mandate of considering the draft prepared by the secretariat. The *Ad Hoc* Committee met twice and reviewed a set of proposed procedures. At its session of 2009 the Governing Body approved the procedures, as well as related amendments to the Financial Regulations which were all presented in document CCLM 88/7 and its attachments.

46. The CCLM examined whether the exercise of functions as TPB involved risks for the Organization from the point of view of the autonomy of FAO, the protection of its privileges and immunities, especially its immunity from national jurisdiction and any financial liabilities for the Organization.

47. The CCLM noted that, through the SMTA, the provider and the recipient agreed to confer on FAO acting as TPB, the right to request information as required by various provisions of the SMTA, the right to request that appropriate information, including samples as necessary, be made available to the provider and the recipient regarding their respective obligations in the context of the SMTA and the right to initiate dispute settlement procedures regarding rights of any of the parties.

48. The CCLM observed that SMTA established a flexible system of progressive escalation in handling instances of non-compliance, involving initial gathering of information, informal negotiations and amicable dispute settlement, possible resort to mediation and, in the event that attempts to settle the matter should fail, recourse to arbitration. The law applicable to the adjudication of the dispute would be general principles of law, including the UNIDROIT Principles of International Commercial Contracts 2004, the objectives and relevant provisions of the Treaty and, where necessary for interpretation, the decisions of the Governing Body. In general, the CCLM noted the flexible nature of these arrangements to be carried out as far as possible in a consensual spirit and, in particular, the fact that there was no automaticity in the activation of the procedures on settlement of disputes. Furthermore, throughout the process FAO retained a possibility of assessing each situation and resorting to such remedies provided for in the SMTA as would be appropriate in light of the circumstances.

49. Finally, the CCLM also noted that the TPB procedures included a set of financial provisions ensuring that FAO would not incur liabilities in excess of the funds available in the Third Party Beneficiary Operational Reserve. This particular condition had been underlined by the Governing Body of the Treaty through Resolution 5/2009 which decided that any costs arising from those functions would have to be covered by the Third Party Beneficiary Operational Reserve and that FAO shall not incur any liabilities in excess of the funds available in the Reserve provided for in the Financial Regulations of the Treaty.

50. The CCLM concluded, therefore, that the procedures regarding the exercise by FAO of functions as TPB included adequate safeguards protecting the autonomy of the Organization and its immunity from every form of national jurisdiction, and ensured that FAO would not incur financial liabilities beyond the level of the Third Party Beneficiary Operational Reserve.

51. The CCLM underlined that this mechanism provided an example of useful synergies between FAO and bodies under Article XIV of the Constitution.

VIII. DRAFT AGREEMENT ON PORT STATE MEASURES TO PREVENT, DETER AND ELIMINATE ILLEGAL, UNREPORTED AND UNREGULATED FISHING

52. The CCLM took note of a detailed presentation of document CCLM 88/8, "*Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing*", stressing salient features of the process of formulation and negotiation of the draft Agreement and providing an overview of its provisions. At its session of March 2007 the Committee on Fisheries acknowledged the urgent need for a comprehensive set of port State measures and took note of the strong support for a proposal to develop a new legally-binding instrument based on the 2005 FAO Model Scheme on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing (Model Scheme) and the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing. The Committee on Fisheries endorsed a timetable for the convening of an Expert Consultation in 2007 and, subsequently, a Technical Consultation to finalize the instrument's text in 2008. The Council, at its Hundred and Thirty-second Session in June 2007, welcomed and supported this initiative.

53. A first draft Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing was first developed by an FAO Expert Consultation to Draft a Legally-binding Instrument on Port State Measures held in September 2007. This draft Agreement served as a basis for the work of the Technical Consultation to Develop a Legally-binding Agreement on Port State Measures held in June 2008 with resumed sessions in January, May and August 2009. At the resumed session of August 2009, the Technical Consultation approved the draft Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing. Subsequently, the FAO secretariat, assisted by an open-ended group of legal experts and participants in the Technical Consultation, carried out a detailed editorial review of the draft Agreement.

54. The CCLM noted a statement by the representative of the Netherlands that the draft Agreement dealt with matters within the exclusive competence of the European Community which expressed its concurrence with the draft Agreement. The representative of the Netherlands also stated that negotiations on a General Assembly resolution on fisheries matters would be held at the United Nations between 16 and 23 November 2009. The adoption of the Agreement was a critical event to be taken into consideration in the context of those negotiations and it was, therefore, highly desirable that the Agreement be adopted as early as possible after the beginning of the Conference.

55. The CCLM noted that Members of the Group of Latin America and the Caribbean had made a number of statements which were recorded in the Report of the Technical Consultation, including the one in Appendix E thereto. The CCLM noted that the report of the Technical Consultation and the draft Agreement would be submitted to the Council and the Conference.

56. The CCLM endorsed the draft Agreement, together with a draft Conference Resolution, set out in Appendix V of this report, and agreed to forward them to the Council for subsequent transmission to the Conference for approval under Article XIV, paragraph 1 of the Constitution.

IX. DRAFT AGREEMENT ON THE CENTRAL ASIAN AND CAUCASUS FISHERIES AND AQUACULTURE COMMISSION

57. The CCLM examined document CCLM 88/9, “*Agreement on the Central Asian and Caucasus Fisheries and Aquaculture Commission*”. The CCLM noted that a process for the creation of a commission to promote sustainable fisheries in Central Asia and Caucasus had been launched in December 2007. Subsequently, FAO and the Government of Turkey convened two intergovernmental meetings, the first in collaboration with the Government of Tajikistan in 2008 and the second in collaboration with the Government of Turkey in 2009, which assisted with the drafting of the draft Agreement.

58. The CCLM noted that, at the Second Intergovernmental Meeting, the participants had laid particular emphasis on the fact that the Agreement should be placed under Article XIV of the Constitution, which would allow for synergies between the Commission and relevant units of FAO, especially the Fisheries Department. At the same time, prospective Members of the Commission underlined their awareness of the implications of the placement of the Commission under the framework of FAO in light of the current reform process of FAO. While it was expected that FAO would be able to support the Commission and facilitate the above-mentioned synergies, prospective Members expressed their awareness of the implications of the provisions of Article IX of the Agreement on the finances of the Commission, in line with IPA action 3.17, which implied expectancy that bodies under Article XIV of the Constitution should achieve a greater degree of self-funding.

59. The CCLM reviewed the draft Agreement on the Central Asian and Caucasus Fisheries and Aquaculture Commission, together with a draft Council Resolution set out in Appendix VI, found them to be in proper legal form and decided to forward them to the Council for approval under Article XIV, paragraph 2 of the Constitution.

X. OTHER MATTERS

60. The CCLM took note of document CCLM 88/Inf.2 entitled “*Fifty-one Years of Activity of the Committee on Constitutional and Legal Matters*” prepared in response to a request by the Chairperson, who wished to acknowledge the work accomplished by the Committee since its establishment in 1957 and its first session in 1958. The Chairperson drew particular attention to the wide range of legal matters addressed by the CCLM over the years reflecting at times, concerns prevailing during particular periods in the life of the Organization.

61. The CCLM noted that after the adoption by the Conference, at its forthcoming Thirty-sixth Session, of the amendments to the Basic Texts of the Organization for the implementation of the IPA there would be a change in the operating model of the CCLM. The CCLM expressed the wish that such a new model should be as efficient as the one which had functioned for the past 51 years.

APPENDIX I

PROPOSED TERMS OF REFERENCE OF THE ETHICS COMMITTEE

1. The Ethics Committee shall operate as an advisory, supervisory and oversight panel to the Director-General on all matters pertaining to ethics within the Organization in accordance with the provisions of this bulletin.

Mandate of the Ethics Committee

2. The Ethics Committee shall have the following mandate:
- a) to keep under regular review all matters pertaining to the formulation, development and implementation of the Ethics Programme of the Organization, including the Organization's financial disclosure programme;
 - b) to keep under review the activities of the Ethics Officer on the basis of regular reports referred to the Committee and to provide guidance thereon;
 - c) to advise on such matters as the Director-General or the Ethics Officer may refer to it;
 - d) to review and advise on the main individual components of the Ethics Programme including relevant policies, regulations and rules, dissemination of information, training, disclosure programme and conflict of interest prevention and related policies;
 - e) to submit an annual report to the Director-General, to the Finance Committee and the Committee on Constitutional and Legal Matters;
 - f) to review any matter that may be referred to it by the Director-General or by a staff member in accordance with the procedures established in paragraph 8;
 - g) to advise or examine any issue related to the fulfilment of its mandate.

Composition of the Committee

3. The Ethics Committee consists of the following Members appointed by the Director-General:
- The Chairperson of the Ethics Committee, who shall be appointed by the Director-General from among reputable individuals external to the Organization.
 - The Deputy Director-General (Operations)
 - An Assistant Director-General or his or her alternate (a second Assistant-Director-General) appointed by the Director-General on a rotational basis.
 - The Legal Counsel or a representative senior official designated by him.
 - The Ethics Officer or the Director of the Ethics Office of the World Food Programme.
 - The Ethics Officer or the Director of the Ethics Office of the International Fund for Agricultural Development.

Term of office

4. The Deputy Director-General (Operations) and the Legal Counsel are permanent Members. The Assistant Director-General and his or her alternate (a second Assistant Director-General nominated by the Director-General) hold a term of three years, which may be extended at the discretion of the Director-General, to be replaced on a rotational basis. The external Members serve for a three-year period, which may be renewed at the discretion of the Director-General.

Meetings

5. The Ethics Committee will hold at least three regular sessions each year. Additional meetings of the Ethics Committee may be convened by the Chairperson if deemed appropriate or for the implementation of the procedure of a request for advice provided for in paragraph 8. The Director-General or the Ethics Officer has the right to request the Chairperson to convene a meeting if necessary.

6. The Ethics Officer shall attend all meetings of the Ethics Committee.

Quorum

7. The presence of all members or the alternate Assistant Director-General and the representative of the Legal Counsel, as applicable, is expected at each meeting. At the discretion of the Chairperson, when necessary, meetings may take place with at least four members.

Special procedure for review of a request for advice or complaint

8. If, following the receipt of a request for advice (or complaint submitted) by a staff member, the Ethics Office does not, within sixty days, formally consider the request, the staff member may then refer the matter in writing to the Chairperson of the Ethics Committee. Alternatively, if following a final determination by the Ethics Officer of a matter referred to that Officer by a staff member, the said staff member wishes to have the matter reviewed further, that staff member may, in writing, refer the matter to the Chairperson of the Ethics Committee. In such an event, the Chairperson, after consultation with the Ethics Committee, may undertake an independent review of the matter and provide a written report to the Director-General. Independent review for the purposes of this provision shall include review of the actions already taken by the Ethics Officer, determination of what additional actions are required including whether referral for investigation is required, and provision of recommendations to the Director-General. Where a staff member has referred a matter to the Chairperson of the Ethics Committee on the basis of the provision of this paragraph, the Organization shall provide the Chairperson with the necessary support, including access to records, staff members and contractors, where feasible.

Secretarial arrangements

9. The Organization shall make the necessary secretarial arrangements for the functioning of the Ethics Committee.

10. The Organization shall provide the Ethics Committee with the necessary support including access to records and documents, staff members and contractors, where appropriate.

APPENDIX II

Resolution /2009

Implementation of the Immediate Plan of Action for FAO Renewal (2009-11)

Amendments to the Constitution

THE CONFERENCE:

Recalling Resolution 1/2008 “*Adoption of the Immediate Plan of Action (IPA) for FAO Renewal (2009-11)*”, adopted by the Conference at its Thirty-fifth (Special) Session, which called for amendments to the Basic Texts of FAO, including amendments to the Constitution;

Recalling also that the Committee on Constitutional and Legal Matters (CCLM), at its Eighty-fourth and Eighty-fifth sessions, acting under the guidance of the Conference Committee for the Follow-up to the Independent External Evaluation of FAO (CoC-IEE), has proposed amendments to the Constitution for approval by the Conference at its session in 2009;

Noting that the Council, at its Hundred and Thirty-sixth Session, endorsed the substance of the amendments proposed by the CCLM;

Noting further that the Director-General gave notice of the proposed amendments to FAO Members in accordance with Article XX, paragraph 4 of the Constitution;

Having considered the text of the amendments to the Constitution proposed by the Council in its Hundred and Thirty-sixth Session;

1. Decides to adopt the following amendments to the Constitution¹:

Regional Conferences

New paragraph 6 of **Article IV** of the Constitution:

“Functions of the Conference

(...)

6. There shall be such Regional Conferences as the Conference may establish. The status, functions and reporting procedures of the Regional Conferences shall be governed by rules adopted by the Conference.”

Technical Committees

Revised paragraph 6 and new paragraph 7 of **Article V** of the Constitution:

“Council of the Organization

(...)

¹ Deletions are indicated using ~~struck out text~~ and insertions are indicated using *underlined italics*.

6. In the performance of its functions, the Council shall be assisted:
- (a) by a Programme Committee, a Finance Committee, and a Committee on Constitutional and Legal Matters, which shall report to the Council; and
- (b) by a Committee on Commodity Problems, a Committee on Fisheries, a Committee on Forestry, a Committee on Agriculture and a Committee on World Food Security which shall report to the Council on programme and budget matters and to the Conference on policy and regulatory matters.
7. ~~These Committees shall report to the Council and their~~ The composition and terms of reference of the Committees referred to in paragraph 6 shall be governed by rules adopted by the Conference.”

Director-General

Revised paragraphs 1 and 3 of **Article VII** of the Constitution:

“The Director-General

1. There shall be a Director-General of the Organization who shall be appointed by the Conference for a term of four ~~six~~ years. The Director-General ~~He~~ shall be eligible for reappointment only once for a further term of four years.
 2. The appointment of the Director-General under this Article shall be made by such procedures and on such terms as the Conference may determine.
 3. Should the office of Director-General become vacant prior to the expiry of his term of office, the Conference shall, either at the next regular session or at a special session convened in accordance with Article III, paragraph 6 of this Constitution, appoint a Director-General in accordance with the provisions of paragraphs 1 and 2 of this Article. ~~However, the~~ duration of the term of office of the Director-General appointed at a special session shall expire at after ~~at the end of the year of the third~~ second regular session of the Conference following the date of his appointment, in accordance with the sequence for the term of office of the Director-General established by the Conference.
 4. Subject to the general supervision of the Conference and the Council, the Director-General shall have full power and authority to direct the work of the Organization.
 5. The Director-General or a representative designated by him shall participate, without the right to vote, in all meetings of the Conference and of the Council and shall formulate for consideration by the Conference and the Council proposals for appropriate action in regard to matters coming before them.”
2. Instructs the secretariat to make editorial adjustments to Article V, paragraphs 2 and 4, and Article XIV, paragraph 7 of the Constitution to use the word “*Chairperson*” instead of “*Chairman*”.

APPENDIX III

Resolution /09

Implementation of the Immediate Plan of Action for FAO Renewal (2009-11)
Amendments to the General Rules of the Organization and to the Financial Regulations

THE CONFERENCE,

Recalling Resolution 1/2008 “*Adoption of the Immediate Plan of Action (IPA) for FAO Renewal (2009-11)*” adopted by the Conference, at its Thirty-fifth (Special) Session, which called for amendments to the Basic Texts of FAO, including amendments to the General Rules of the Organization;

Recalling also that the Committee on Constitutional and Legal Matters (CCLM), at its Eighty-fourth, Eighty-fifth, Eighty-sixth and Eighty-seventh sessions, acting under the guidance of the Conference Committee for the Follow-up to the Independent External Evaluation of FAO (CoC-IEE), has proposed amendments to the General Rules of the Organization and to the Financial Regulations for approval by the Conference at its session in 2009;

Noting that the Council, at its Hundred and Thirty-sixth Session, endorsed the substance of the amendments proposed by the CCLM;

Having considered the text of the amendments to the General Rules of the Organization and to the Financial Regulations proposed by the Council in its Hundred and Thirty-sixth Session;

1. Decides to adopt the following amendments to the General Rules of the Organization²:

Conference to meet in June

Revised paragraph 1 of **Rule I** of the GRO:

“Sessions of the Conference

1. The regular session of the Conference shall be held at the seat of the Organization in the months of June ~~October or November~~, unless it is convened elsewhere or at a different time in pursuance of a decision of the Conference at a previous session, or, in exceptional circumstances, of a decision by the Council (...)

Reporting lines of the Technical Committees and Review by the Conference of the Strategic Framework and the Medium Term Plan

Revised paragraph 2 of **Rule II** of the GRO concerning the agenda of the Conference:

² Deletions are indicated using ~~struck out text~~ and insertions are indicated using underlined italics.

“Agenda

Regular sessions

1. (...)
2. The provisional agenda for a regular session shall include:

(...)

(c) (...)

(iii) review of the Medium Term Plan and, as appropriate, of the Strategic Framework;

(other sub-paragraphs renumbered)

(xii) review, in accordance with Article V, paragraph 6 of the Constitution, the reports on policy and regulatory matters of the Committee on Commodity Problems, the Committee on Fisheries, the Committee on Forestry, the Committee on Agriculture and the Committee on World Food Security;

(xiii) review, in accordance with Article IV, paragraph 6 of the Constitution and Rule XXXV of these Rules the reports on policy and regulatory matters of the Regional Conferences.”

Changes to terms of office of Council members due to the change of date of the Conference Session

Revised paragraphs 1 and 2 of **Rule XXII** of the GRO:

“Election of the Council

1. (a) Except as provided in paragraph 9 of this Rule, the Council shall be elected for a term of three years.
 - (b) The Conference shall make such provisions as will ensure that the terms of office of sixteen Members of the Council shall expire in each of two successive calendar years and seventeen in the third calendar year.
 - (c) The terms of office of all members of any one group shall expire simultaneously either on the termination of the regular session of the Conference in a year in which such a session is held, or on ~~31 December~~ 30 June in other years.
2. The Conference shall, at each regular session, and after considering any recommendations of the General Committee, fill all vacancies due to the expiration of the terms of office of Council Members at the end of that session or at the end of June of the following year, in conformity with the provisions of the preceding paragraph.

(...)”

Changes to Functions of the Council and reporting lines of the Technical Committees

Revised paragraphs 1 and 2 of **Rule XXIV** of the GRO:

“Functions of the Council

The Council, subject to the provisions of paragraph 3 of Article V of the Constitution, shall, between sessions of the Conference, act on behalf of the Conference as its executive organ and make decisions on matters that need not be submitted to the Conference. In particular, the Council shall exercise the functions described below:

1. World food and agriculture situation and related matters

The Council shall:

~~(a) keep under review the state of food and agriculture in the world, and consider the programmes of Member Nations and Associate Members;~~

~~(b) tender advice on such matters to governments of Member Nations and Associate Members, intergovernmental commodity councils or other commodity authorities and through the Director General to other specialized international agencies;~~

~~(a e) draw up a provisional agenda for the review by the Conference of the state of food and agriculture, drawing attention to specific policy issues which would require Conference consideration or could be the subject of a formal recommendation by the Conference under paragraph 3 of Article IV of the Constitution, and aid the Director-General to prepare the report and agenda for the review by the Conference of the programmes of Member Nations and Associate Members;~~

~~(d) — (i) — examine current developments in proposed and existing intergovernmental agricultural commodity arrangements, particularly those developments affecting adequacy of food supply, utilization of food reserves and famine relief, changes in production or pricing policies and special food programmes for undernourished groups;~~

~~(ii) — promote consistency and integration of agricultural commodity policies, national and international, with regard to (a) overall objectives of the Organization; (b) the interrelationships of production, distribution and consumption; and (c) interrelationships of agricultural commodities;~~

~~(iii) — initiate and authorize groups to study and investigate agricultural commodity situations which are becoming critical, and propose appropriate action, if necessary, under paragraph 2 (f) of Article I of the Constitution;~~

~~(iv) — advise on emergency measures such as those relating to the export and import of food and materials or equipment needed for agricultural production, in order to facilitate implementation of national programmes and, if necessary, request the Director General to submit such advice for action to the Member Nations and Associate Members concerned;~~

~~(v) — perform the foregoing functions under (i), (ii) and (iii) in conformity with the Economic and Social Council's Resolution of 28 March 1947² relating to international commodity arrangements, and generally act in close cooperation with the appropriate specialized agencies and intergovernmental bodies.~~

(b) examine and advise on any issues pertaining to or arising out of the world food and agriculture situation and related matters, specially any such issues of an urgent nature, which would call for action by the Conference, the Regional Conferences, the Committees referred to in Article V, paragraph 6 of the Constitution or the Director-General;

(c) examine and advise on any other issues pertaining to or arising out of the world food and agriculture situation and related matters which may have been referred to the Council in accordance with decisions of the Conference or any applicable arrangements.

2. Current and prospective activities of the Organization, including its Strategic Framework, Medium Term Plan and Programme of Work and Budget

The Council shall:

(a) ~~consider; and make recommendations to the Conference on, policy issues regarding: (i) the summary and draft Programme of Work and Budget and supplementary estimates submitted by the Director General for the following financial period; (ii) the activities of the Organization in connection with the United Nations Development Programme;~~ the Strategic Framework, the Medium Term Plan and the Programme of Work and Budget;

(b) make a recommendation to the Conference regarding the level of the budget;

~~(b) (c)~~ (c) take any necessary action, within the approved Programme of Work and Budget, with respect to the technical activities of the Organization and report to the Conference on such policy aspects as may require decisions by the Conference;

(d) decide on such adjustments to the Programme of Work and Budget as may be required in the light of the decisions of the Conference on the budget level;

(e) review, in accordance with Article V, paragraph 6 of the Constitution, the reports on programme and budget matters of the Committee on Commodity Problems, the Committee on Fisheries, the Committee on Forestry, the Committee on Agriculture and the Committee on World Food Security;

(f) review, in accordance with Article IV, paragraph 6 of the Constitution and Rule XXXV of these Rules the reports on programme and budget matters of the Regional Conferences.

(...)"

Revised cycle of Programme and Budget preparation and of Council sessions

Revised **Rule XXV** of the GRO:

“Sessions of the Council

1. The Council shall hold a session as often as it considers necessary or on the call of its ~~Chairman~~person or the Director-General, or on request submitted in writing to the Director-General by ~~five~~ fifteen or more Member Nations.

2. The Council shall in any event hold ~~three~~ five sessions ~~between the regular sessions of the Conference, in a biennium~~ as follows:

- (a) one session immediately after the regular session of the Conference;
- (b) ~~one~~ two sessions in the first year of the biennium ~~approximately midway between the regular sessions of the Conference; and~~
- (c) one session not less than ~~120~~ 60 days before the regular session of the Conference; and
- (d) one session towards the end of the second year of the biennium.

3. At its session held immediately after a regular session of the Conference the Council shall:

- (a) elect the Chairmen ~~persons~~ and Members of the Programme Committee, the Finance Committee and the Committee on Constitutional and Legal Matters;
- (b) take any action of an urgent nature arising out of decisions of the Conference.

~~4. At its session held in the first year of the biennium, approximately midway between the regular sessions of the Conference, the Council shall in particular conduct on behalf of the Conference a world review of the state of food and agriculture and exercise the function provided in paragraph 1 (b) of Rule XXIV of these Rules.~~

~~5~~ 4. At its session held in the second year of the biennium, not less than ~~120~~ 60 days prior to the regular session of the Conference, the Council shall in particular exercise the functions provided in paragraphs 1 (c), 2 (a) and (b) and, insofar as possible, those provided in paragraph 5 (b) of Rule XXIV of these Rules.

(other paragraphs of this Rule to be re-numbered).”

Programme Committee

Revised **Rule XXVI** of the GRO:

“Programme Committee

1. The Programme Committee provided for in paragraph 6 of Article V of the Constitution shall be composed of representatives of ~~eleven~~ twelve Member Nations of the Organization. Such Member Nations shall be elected by the Council in accordance with the procedure set forth in paragraph 3 of this Rule. Members of the Committee shall appoint as their representatives individuals who have shown a continued interest in the objectives and activities of the Organization, have participated in Conference or Council sessions and have special competence and experience in economic, social and technical matters pertaining to the various fields of the Organization's activities. Members of the Committee shall be elected for a period of two years at the session of the Council ~~immediately~~ following the regular session of the Conference. Their term of office shall expire upon election by the Council of new Members. They shall be eligible for reappointment.

2. A Member Nation of the Organization seeking election as a Member of the Committee shall, as soon as possible but not later than ~~ten~~ *twenty* days before the opening date of the Council session at which the election is to be held, communicate to the Secretary-General of the Conference and Council the name of the representative that it would appoint if elected and details of his qualifications and experience. The Secretary-General of the Conference and Council shall circulate this information in writing to Members of the Council before the Council session at which the election is to be held. *The same procedure shall apply to the nomination of the Chairperson.*
3. The following procedures shall apply to the election of *the Chairperson and the* Members of the Committee:
- (~~a~~) The Council shall first elect a ~~Chairman~~ *person* from among the ~~designated nominated~~ representatives of ~~the prospective Members of the Committee Member Nations of the Organization.~~ *The Chairperson shall be elected on the basis of individual qualifications and shall not represent a region or a country.*
- (~~b~~) Member Nations shall present their candidature for election *as Members of the Committee* in respect of a specific region as determined by the Conference for the purpose of Council elections.
- (c) ~~After the election referred to in subparagraph (b) above, the Council shall proceed to the election of~~ *elect* the other Members of the Committee, in two stages, making the necessary adjustment to take into account the Member Nation of which the Chairman is a national and the region to which that Member Nation belongs *as follows*:
- (i) ~~the first stage shall be to elect eight Members from the following regions~~ *two members from each of the following regions*: Africa, Asia and the Pacific, ~~Near East~~; *Europe*, Latin America and the Caribbean, *and Near East.*
- (ii) ~~the second stage shall be to elect three Members from the following regions~~ *one member from each of the following regions*: Europe, North America, and Southwest Pacific.
- (d) Except as provided in subparagraph (~~b~~) *3(a)* above, the ~~election of Members of the Committee~~ *elections* shall be conducted in accordance with the provisions of paragraphs 9 (b) and 13 of Rule XII of these Rules, one election being held to fill simultaneously all the vacancies occurring in each ~~group of regions~~ *region* specified in subparagraph (c) above.
- (e) The other provisions on voting arrangements in Rule XII of these Rules shall apply *mutatis mutandis* to the election of Members of the Committee.
4. (a) If the representative of a Member of the Committee is expected to be unable to attend a session of the Committee, or if, due to incapacity, death or any other reason he is prevented from exercising his functions for the remainder of the term for which the Member he represents has been elected, that Member shall inform the Director-General and the ~~Chairman~~ *person* as soon as possible, and may designate a substitute representative who shall have the qualifications and experience referred to in paragraph 1 of this Rule. The Council shall be informed of the qualifications and experience of the substitute representative.

(b) ~~The provisions of subparagraph (a) shall also apply to the Chairman of the Committee except that, in the absence of the Chairman elected by the Council, If the Chairperson of the Committee elected by the Council is unable to attend a session of the Committee, the~~ his functions shall be exercised by the Vice-Chairman ~~person~~ elected in accordance with the Rules of Procedure of the Committee. If due to incapacity, death or any other reason the Chairperson of the Committee elected by the Council is prevented from exercising his functions for the remainder of the term, the functions shall be exercised by the Vice-Chairperson elected in accordance with the Rules of Procedure of the Committee until the election by the Council, at its first session following the occurrence of the vacancy, of a new Chairperson. The new Chairperson shall be elected for the remainder of the vacated term of office.

5. The Chairman ~~person~~ of the Programme Committee ~~may~~ should attend sessions of the Conference or Council when the report of the Programme Committee is considered.

6. The Chairman ~~person~~ of the Council may attend all meetings of the Programme Committee.

7. The Programme Committee shall have the following functions:

(a) to review:

(i) the current activities of the Organization;

(ii) the Strategic Framework, as well as the long-term programme objectives of the Organization, and the Medium Term Plan and any adjustments thereto;

(ii) the ~~summary and draft~~ Programme of Work and Budget of the Organization for the ensuing biennium, particularly with respect to:

- content and balance of the programme, having regard to the extent to which it is proposed that existing activities be expanded, reduced in scope or discontinued;

- the extent of coordination of work between the different technical divisions of the Organization and between the Organization and other international organizations;

- the priorities to be given to existing activities, extension of such activities and to new activities;

~~(iii) the programme aspects of the United Nations Development Programme with which the Organization is concerned;~~

(iv) any required adjustments to the current Programme of Work and Budget, or to the Programme of Work and Budget for the next

biennium as may be required in the light of the decision of the Conference on the budget level;

- (b) to consider the matters listed in Rule XXVIII of these Rules;
- ~~(c) to advise the Council on the long term programme objectives of the Organization;~~
- ~~(d)~~ to adopt and amend its own rules of procedure, which shall be consistent with the Constitution and the General Rules of the Organization;
- ~~(e)~~ to consider any matters submitted to it by the Council of the Director-General;
- ~~(f)~~ to report to the Council or tender advice to the Director-General, as appropriate, on matters considered by the Committee.

8. The Programme Committee shall hold sessions as often as necessary, either:

- (a) on the call of its Chairperson acting on his own initiative or in pursuance of a decision of the Committee or of a request submitted in writing to the Chairperson by seven Members of the Committee; or
- (b) on the call of the Director-General acting on his own initiative or in pursuance of a request submitted in writing to him by fifteen or more Member Nations.

~~The Programme Committee shall in any event hold one-two sessions annually.~~

9. The sessions of the Programme Committee shall be open to silent observers, unless otherwise decided by the Committee. The reasons for such a decision shall be stated in the report of the session. Silent observers shall not take part in any debates.

~~10. Representatives of Members of the Committee shall be reimbursed for the cost of their travel expenses, properly incurred in travelling, by the most direct route, from their duty station to the site of the Committee session and return to their duty station. They shall also be paid a subsistence allowance while attending sessions of the Committee, in accordance with the travel regulations of the Organization."~~

Finance Committee

Revised **Rule XXVII** of the GRO:

"Finance Committee

1. The Finance Committee provided for in paragraph 6 of Article V of the Constitution shall be composed of representatives of ~~eleven~~ twelve Member Nations of the Organization. Such Member Nations shall be elected by the Council in accordance with the procedure set forth in paragraph 3 of this Rule. Members of the Committee shall appoint as their representatives individuals who have shown a continued interest in the objectives and activities of the Organization, have participated in Conference or Council sessions and have special competence and experience in economic, social and technical matters pertaining to the various

fields of the Organization's activities. Members of the Committee shall be elected for a period of two years at the session of the Council ~~immediately~~ following the regular session of the Conference. Their term of office shall expire upon election by the Council of new Members. They shall be eligible for reappointment.

2. A Member Nation of the Organization seeking election as a Member of the Committee shall, as soon as possible but not later than ~~ten~~ twenty days before the opening date of the Council session at which the election is to be held, communicate to the Secretary-General of the Conference and Council the name of the representative that it would appoint if elected and details of his qualifications and experience. The Secretary-General of the Conference and Council shall circulate this information in writing to Members of the Council before the Council session at which the election is to be held. The same procedure shall apply to the nomination of the Chairperson.

3. The following procedures shall apply to the election of the Chairperson and the Members of the Committee:

(a) ~~The Council shall first elect a Chairman~~ person from among the ~~designated~~ nominated representatives of ~~the prospective Members of the Committee~~ Member Nations of the Organization. The Chairperson shall be elected on the basis of individual qualifications and shall not represent a region or a country.

(b) Member Nations shall present their candidature for election as Members of the Committee in respect of a specific region as determined by the Conference for the purpose of Council elections.

(c) ~~After the election referred to in subparagraph (b) above, the Council shall proceed to the election of~~ elect ~~the other Members of the Committee, in two stages, making the necessary adjustment to take into account the Member Nation of which the Chairman is a national and the region to which that Member Nation belongs~~ as follows:

(i) ~~the first stage shall be to elect seven Members from the following regions~~ two members from each of the following regions: Africa, Asia and the Pacific, ~~Near East;~~ Europe, Latin America and the Caribbean, and Near East.

(ii) ~~the second stage shall be to elect four Members from the following regions~~ one member from each of the following regions: ~~Europe,~~ North America, and Southwest Pacific.

(d) Except as provided in subparagraph ~~(b)~~ 3(a) above, the ~~election of Members of the Committee~~ elections shall be conducted in accordance with the provisions of paragraphs 9 (b) and 13 of Rule XII of these Rules, one election being held to fill simultaneously all the vacancies occurring in each ~~group of regions~~ region specified in subparagraph (c) above.

(e) The other provisions on voting arrangements in Rule XII of these Rules shall apply *mutatis mutandis* to the election of Members of the Committee.

4. (a) If the representative of a Member of the Committee is expected to be unable to attend a session of the Committee, or if, due to incapacity, death or any other reason he is prevented from exercising his functions for the remainder of the term for which the Member he represents has been elected, that Member shall inform the Director-General and the

~~Chairman~~person as soon as possible, and may designate a substitute representative who shall have the qualifications and experience referred to in paragraph 1 of this Rule. The Council shall be informed of the qualifications and experience of the substitute representative.

- (b) ~~The provisions of subparagraph (a) shall also apply to the Chairman of the Committee except that, in the absence of the Chairman elected by the Council,~~ If the Chairperson of the Committee elected by the Council is unable to attend a session of the Committee, the ~~his~~ functions shall be exercised by the Vice- ~~Chairman~~person elected in accordance with the Rules of Procedure of the Committee. If due to incapacity, death or any other reason the Chairperson of the Committee elected by the Council is prevented from exercising his functions for the remainder of the term, the functions shall be exercised by the Vice-Chairperson elected in accordance with the Rules of Procedure of the Committee until the election by the Council, at its first session following the occurrence of the vacancy, of a new Chairperson. The new Chairperson shall be elected for the remainder of the vacated term of office.

5. The ~~Chairman~~person of the Finance Committee ~~may~~should attend sessions of the Conference or Council when the report of the Finance Committee is considered.

6. The ~~Chairman~~person of the Council may attend all meetings of the Finance Committee.

7. The Finance Committee shall (...) have (...) the following functions:

- (a) to review the Strategic Framework, the Medium Term Plan and the Programme of Work and Budget for the ensuing biennium, as well as the financial implications of ~~the other~~ Director-General's ~~budgetary~~ proposals including proposals for supplementary estimates, and to make recommendations thereon to the Council regarding important matters;

(...)

8. The Finance Committee shall hold sessions as often as necessary, either:

- (a) on the call of its ~~Chairman~~person acting on his own initiative or in pursuance of a decision of the Committee or of a request submitted in writing to the ~~Chairman~~person by ~~three~~ seven Members of the Committee; or
- (b) on the call of the Director-General acting on his own initiative or in pursuance of a request submitted in writing to him by ~~five~~ fifteen or more Member Nations.

The Finance Committee shall in any event hold ~~one~~two sessions annually. ~~Additional sessions may be held to provide consultation on financial matters with the appropriate commissions of the Conference.~~

9. The sessions of the Finance Committee shall be open to silent observers, unless otherwise decided by the Committee. The reasons for such a decision shall be stated in the report of the session. Silent observers shall not take part in any debates.

9/10. Representatives of Members of the Committee shall be reimbursed for the cost of their travel expenses, properly incurred in travelling, by the most direct route, from their duty station to the site of the Committee session and return to their duty station. They shall also be paid a subsistence allowance while attending sessions of the Committee, in accordance with the travel regulations of the Organization.”

Programme and Finance Committees functions regarding the Strategic Framework, the Medium Term Plan and the Programme of Work and Budget

Revised **Rule XXVIII** of the GRO:

“Concurrent sessions and joint meetings of the Programme and Finance Committees

1. ~~In the second year of the biennium~~ The Programme and the Finance Committee shall hold concurrent sessions *as required*. At these sessions the two Committees shall, *inter alia*, review separately *the Strategic Framework*, the ~~summary and draft~~ *Medium Term Plan*, and the Programme of Work and Budget submitted by the Director-General for the following biennium. The Programme Committee shall consider the programme and relevant financial aspects of the ~~summary and draft~~ Programme of Work, while the Finance Committee shall consider *substantive aspects of management and administrative services and the overall* financial aspects of the ~~summary and draft~~ Programme of Work and Budget without concerning itself with the merits of the Programme.

2. ~~Towards the end of~~ *During* the concurrent sessions mentioned above, the two Committees shall hold joint meetings to consider, *as appropriate*:

- (a) the financial implications of the technical, *management and administrative* aspects of the ~~summary and draft~~ Programme of Work;
- (b) the implications of the ~~summary and draft~~ Programme of Work insofar as the level of the budget is concerned;
- (c) the financial implications with respect to future years of the activities provided for in the *Medium Term Plan and the* ~~summary and draft~~ Programme of Work and Budget;
- (d) the format to be adopted for the presentation of *the Strategic Framework*, the *Medium Term Plan and the* ~~summary and draft~~ Programme of Work and Budget in order to facilitate the review thereof;
- (e) any other matters of joint interest to the two Committees which fall within their terms of reference.

3. The Programme and Finance Committees shall submit to the Council a consolidated report on such aspects of *the Strategic Framework*, the *Medium Term Plan and the* ~~summary and draft~~ Programme of Work and Budget as are of joint interest, setting out the main features thereof and emphasizing policy issues for consideration by the Council or the Conference.

4. In the second year of the biennium, the Programme and Finance Committees shall consider and propose adjustments to the Programme of Work

and Budget for the next biennium, as required in the light of the decisions of the Conference on the budget level.”

Committee on Commodity Problems

Revised paragraph 7 of **Rule XXIX** of the GRO:

“Committee on Commodity Problems

(...)

7. The Committee shall take full account of the responsibilities and activities of the Committee on World Food Security and of the ~~Committee on Food Aid Policies and Programmes~~ *Executive Board of the World Food Programme* in order to avoid overlapping and unnecessary duplication of work. *In discharging its functions, the Committee shall, as appropriate, seek to strengthen inter-action with the United Nations Conference on Trade and Development, the World Trade Organization and the Common Fund for Commodities.*

(...)”

Committee on Agriculture

Revised paragraph 6 (b) of **Rule XXXII** of the GRO:

“Committee on Agriculture

(...)

6. The Committee shall:

(...)

(b) advise the Council on the overall medium- and longer-term programme of work of the Organization relating to agriculture *and livestock*, food and nutrition, with emphasis on the integration of all social, technical, economic, institutional and structural aspects related to agricultural and rural development in general;

(...)”

Committee on World Food Security

Revised paragraph 6 (a) of **Rule XXXIII** of the GRO:

“Committee on World Food Security

6. The Committee shall serve as a forum in the United Nations system for review and follow-up of policies concerning world food security, including food production, sustainable use of the natural resource base for food security, nutrition, physical and economic access to food and other food security-related aspects of poverty eradication, the implications of food trade for world food security and other related matters and shall in particular:

- (a) examine major problems and issues affecting the world food situation, including through the report on the State of Food Insecurity in the World, and the steps being proposed or taken to resolve them by Governments and relevant international organizations, bearing in mind the need for the adoption of an integrated approach towards their solution;

(...)"

Committee on Constitutional and Legal Matters

Revised **Rule XXXIV** of the GRO:

"Committee on Constitutional and Legal Matters

1. The Committee on Constitutional and Legal Matters provided for in paragraph 6 of Article V of the Constitution shall be composed of ~~not more than~~ representatives of seven Member Nations of the Organization. Such Member Nations shall be elected by the Council in accordance with the procedure set forth in paragraph 3 of this Rule. Members of the Committee shall appoint as their representatives individuals who have shown a continued interest in the objectives and activities of the Organization, have participated in Conference or Council Sessions and, as far as possible, have competence and expertise in legal matters. Members of the Committee shall be elected for a period of two years at the Session of the Council ~~immediately~~ following the regular session of the Conference. Their term of office shall expire upon election by the Council of new Members. They shall be eligible for reappointment.

2. ~~Nomination of any candidate for election to the Committee shall be submitted in writing by one or more Member Nations to the Secretary General of the Conference and Council by a deadline to be determined by the Chairman of the Council in time to be circulated on the morning of the day set for the election. A Member Nation may nominate itself. Member Nations nominated shall signify their willingness to serve on the Committee if elected. The provisions on voting arrangements of Rule XII of these Rules shall apply mutatis mutandis to the election of Members of the Committee. A Member Nation of the Organization seeking election as a Member of the Committee shall, as soon as possible but not later than twenty days before the opening date of the Council session at which the election is to be held, communicate to the Secretary-General of the Conference and Council the name of the representative that it would appoint if elected and details of his qualifications and experience. The Secretary-General of the Conference and Council shall circulate this information in writing to Members of the Council before the Council session at which the election is to be held. The same procedure shall apply to the nomination of the Chairperson.~~

3. The following procedures shall apply to the election of the Chairperson and the Members of the Committee:

- (a) The Council shall first elect a Chairperson from among the nominated representatives of the Member Nations of the Organization. The Chairperson shall be elected on the basis of individual qualifications and shall not represent a region or a country.

(b) Member Nations shall present their candidature for election as Members of the Committee in respect of a specific region as determined by the Conference for the purpose of Council elections.

(c) The Council shall elect one Member of the Committee from each of the following regions: Africa; Asia and the Pacific; Europe; Latin America and the Caribbean; Near East; North America; and Southwest Pacific.

(d) The elections shall be conducted in accordance with the provisions of paragraphs 9 (b) and 11 of Rule XII of these Rules, one election being held to fill the vacancy occurring in each region specified in subparagraph (c) above.

(e) The other provisions on voting arrangements in Rule XII of these Rules shall apply *mutatis mutandis* to the election of Members of the Committee.

4. (a) If the representative of a Member of the Committee is expected to be unable to attend a session of the Committee or if, due to incapacity, death or any other reason, he is prevented from exercising his functions for the remainder of the term for which the Member he represents has been elected, that Member shall inform the Director-General and the Chairperson as soon as possible, and may designate a substitute representative who shall have the qualifications and experience referred to in paragraph 1 of this Rule. The Council shall be informed of the qualifications and experience of the substitute representative.

(b) If the Chairperson of the Committee elected by the Council is unable to attend a session of the Committee, the functions shall be exercised by the Vice-Chairperson elected by the Committee. If due to incapacity, death or any other reason the Chairperson of the Committee elected by the Council is prevented from exercising functions for the remainder of the term, the functions shall be exercised by the Vice-Chairperson until the election by the Council, at its first session following the occurrence of the vacancy, of a new Chairperson. The new Chairperson shall be elected for the remainder of the vacated term of office.

5. The Chairperson of the Committee on Constitutional and Legal Matters should attend sessions of the Conference or Council when the report of the Committee is considered.

6. The Chairperson of the Council may attend all meetings of the Committee on Constitutional and Legal Matters.

3 7. The Committee shall hold sessions to consider specific items referred to it by the Council or the Director-General which may arise out of:

- (a) the application or interpretation of the Constitution, these Rules and the Financial Regulations or amendments thereto;
- (b) the formulation, adoption, entry into force and interpretation of multilateral conventions and agreements concluded under Article XIV of the Constitution;
- (c) the formulation, adoption, entry into force and interpretation of agreements to which the Organization is a party under Articles XIII and XV of the Constitution;

- (d) any other problems relating to conventions and agreements concluded under the aegis of the Organization or to which the Organization is a party;
- (e) the establishment of commissions and committees under Article VI of the Constitution, including their membership, terms of reference, reporting procedures and rules of procedure;
- (f) matters relating to membership in the Organization and its relations with nations;
- (g) the desirability of requesting advisory opinions from the International Court of Justice in accordance with paragraph 2 of Article XVII of the Constitution, or with the Statute of the Administrative Tribunal of the International Labour Organisation;
- (h) the policy regarding privileges and immunities to be sought from host governments for the Organization's headquarters, regional offices, country representations, conferences and meetings;
- (i) problems encountered ensuring the immunity of the Organization, its staff and its assets;
- (j) problems relating to elections and procedure for nominations;
- (k) standards for credentials and full powers;
- (l) reports on the status of conventions and agreements provided for in Rule XXI, paragraph 5 of these Rules;
- (m) policy aspects of relations with international governmental or non-governmental organizations, national institutions or private persons.

4 8. The Committee may also consider the legal and constitutional aspects of any other matters submitted to it by the Council or the Director-General.

5 9. In considering items referred to it under paragraphs ~~3~~ 6 and 4 7, the Committee may make recommendations and give advisory opinions, as appropriate.

6 10. The Committee shall elect a ~~Chairman and a Vice-Chairman~~ person from among its Members.

7 11. The ~~meetings~~ sessions of the Committee shall be open to silent observers held in private, unless otherwise ~~determined~~ decided by the Committee. Silent observers shall not take part in any debates.

8 12. The Committee may adopt and amend its own Rules of Procedure, which shall be consistent with the Constitution and these Rules.

13. The Chairperson and the representatives of Members of the Committee shall be reimbursed for the cost of their travel expenses, properly incurred in travelling, by the most direct route, from their duty station to the site of the Committee session and return to their duty station. They shall also be paid a subsistence allowance while attending sessions of the Committee, in accordance with the travel regulations of the Organization.”

Regional Conferences

New **Rule XXXV** of the GRO (other Rules will be re-numbered accordingly):

“Regional Conferences

1. There shall be Regional Conferences for Africa, Asia and the Pacific, Europe, Latin America and the Caribbean and the Near East, which shall normally meet once every biennium in non-Conference years.
2. The functions of the Regional Conferences shall be:
 - (a) To provide a forum for consultation on all matters pertaining to the mandate of the Organization within the region, including any special issues of interest to the Members in the concerned region;
 - (b) To provide a forum for the formulation of regional positions on global policy and regulatory issues within the mandate of the Organization or having implications in respect of the mandate and activities of the Organization, including with a view to promoting regional coherence on global policy and regulatory matters;
 - (c) To advise on and identify the special problems of their respective regions and priority areas of work which should be taken into account in the preparation of the planning, programme and budgetary documents of the Organization and suggest adjustments to these documents;
 - (d) To review and advise on the plans, programmes or projects carried out by the Organization which impact upon the region;
 - (e) To review and advise on the performance of the Organization in the region in contributing to the achievement of results against relevant performance indicators, including any pertinent evaluations.
3. The Regional Conferences shall report to the Council, through the Programme and Finance Committee, in the areas of their respective mandates, on programme and budget matters and to the Conference on policy and regulatory matters. The reports of the Regional Conferences shall be presented by the Chairperson.
4. (a) At least six months prior to the proposed date for the Regional Conference, the Regional Representation of the Organization in the concerned region, after consultation with the Chairperson, shall send a communication to the Members of the Regional Conference. The communication shall contain a brief outline of the programmes of the Organization of interest to the region and of the outcome of the previous session of the Regional Conference and invite Members to formulate suggestions as to the organization of the next session of the Regional Conference, with particular reference to the agenda of the session..
 - (b) The Director-General shall, in consultation with the Chairperson of the Regional Conference, and taking into account the process mentioned in subparagraph (a) above, prepare a provisional agenda and despatch it to Members not less than 60 days in advance of the session.

(c) Any Member of the Regional Conference may request the Director-General, not less than 30 days before the date of a session, to insert an item in the provisional agenda. The Director-General shall thereupon, if necessary, circulate a revised provisional agenda to all Members together with any necessary papers.

5. The Regional Conferences will adopt such arrangements, consistent with the Constitution and these Rules, as may be necessary for their internal working, including the appointment of a rapporteur. The Regional Conferences may also adopt and amend their own Rules of Procedure, which shall be consistent with the Constitution and these Rules.”

Appointment of the Director-General

Revised **Rule XXXVI** of the GRO:

“Appointment of the Director-General

1. In pursuance of paragraph 1 of Article VII of the Constitution, the Director-General of the Organization shall be appointed under the following conditions:

(a) When the term of office of the Director-General is due to expire, the appointment of a new Director-General shall be placed on the agenda of the regular session of the Conference immediately preceding the expiry of the term of office; whenever, for other reasons, the office of the Director-General is vacant, or notice is received of a pending vacancy, the appointment of a new Director-General shall be placed on the agenda of the next session of the Conference which opens not less than ~~90~~ 120 days from the occurrence or notice of the pending vacancy.

(b) In consideration of the expiry of the term of office of the Director-General, the Council shall set the dates for a period during which Member Nations may submit nominations for the office of Director-General. The nomination period shall have a duration of not less than twelve months and end at least 60 days prior to the beginning of the session of the Council referred to in sub-paragraph (c) of this paragraph. The nomination period shall be communicated to all Member Nations and Associate Members by the Secretary-General of the Conference and Council. Nominations validly made in accordance with Rule XII.5 of these Rules shall be communicated to the Secretary-General of the Conference and Council by the date set by the Council. The Secretary-General shall circulate these nominations to all Member Nations and Associate Members by the date likewise set by the Council, it being understood that in the case of an election taking place at a regular session of the Conference, such date set by the Council shall be not later than 30 days before the session of the Council provided for in subparagraph (c) of this paragraph ~~Rule XXV.2 (e) of these Rules.~~

(c) Subject to such arrangements as the Council may make consistent with these Rules aimed at ensuring equality among candidates, candidates shall address the session of the Council which will be scheduled not less than sixty days before the session of the Conference and respond to such questions as may be put to them by Member Nations and Associate Members of the Organization. There shall be no debate and the Council shall not draw any conclusion or recommendation from any of the statements or interventions made.

(d) As soon as possible after the opening of the Conference session, the General Committee shall determine and announce the date of the election, it being understood that the appointment of the Director-General at a regular session shall begin and be effected within three working days following the opening date of such session. Candidates shall address the Conference and respond to questions that Member Nations and Associate Members may put to them, subject to such arrangements as the Conference may make consistent with these Rules aimed at ensuring equality among candidates.

(e) Travel expenses of each candidate, properly incurred in travelling, by the most direct route from his/her duty station to the site of the Council and Conference sessions referred to in sub-paragraphs (c) and (d) of this paragraph and return to his/her duty station, as well as a subsistence allowance for up to five days per session, shall be borne by the Organization in accordance with its travel regulations.

~~2.(b)~~ The Director-General shall be elected by a majority of votes cast. Until a candidate obtains the required majority, the following procedure shall apply:

~~(a)~~ two ballots shall be held among all candidates;
~~b~~ the candidate having received the smallest number of votes in the second ballot shall be eliminated;

~~(c)~~ thereafter, successive ballots shall be held, and the candidate having received the smallest number of votes in any one of these ballots shall be eliminated, until only three candidates remain;

~~(d)~~ two ballots shall be held among the three remaining candidates;

~~(e)~~ the candidate having received the smallest number of votes during the second ballot referred to in subparagraph ~~(d)~~ above shall be eliminated;

~~(f)~~ a subsequent ballot, or successive ballots if necessary, shall be held among the two remaining candidates until one candidate obtains the required majority;

~~(g)~~ in the event of a tie between two or more candidates having received the smallest number of votes in one of the ballots referred to in subparagraphs ~~(b)~~ or ~~(c)~~ above, a separate ballot or, if necessary, separate ballots shall be held among such candidates, and the candidate having received the smallest number of votes in such ballot or ballots shall be eliminated;

~~(h)~~ in the event of a tie between two candidates having received the smallest number of votes in the second of the two ballots referred to in subparagraph ~~(d)~~ above, or if all three candidates have received the same number of votes in that ballot, successive ballots shall be held among all three candidates until one candidate has received the smallest number of votes, after which the procedure provided in subparagraph ~~(f)~~ above shall apply.

3. Should the office of Director-General become vacant prior to the expiry of the term of office, the Council shall promptly make the necessary arrangements for the election of a new Director-General, subject to the provisions of sub-paragraph 1(a) of this Rule.

~~4(e)~~. Subject to the provisions of Article VII, paragraphs 1 to 3 of the Constitution, the terms and conditions of appointment of the Director-General, including the salary and other emoluments attached to the office, shall be determined by the Conference, having regard to any recommendations submitted by the General Committee, and shall be embodied in a contract signed by him and by the ~~Chairman~~chairperson of the Conference on behalf of the Organization.

~~52~~. The Deputy Director-General with greater seniority in the position shall act as Director-General in any case where the Director-General is unable to act or in the case of a vacancy in the office of the Director-General. In case the Deputy Directors-General were appointed at the same time, the functions shall be exercised by the Deputy Director-General with greater seniority with the Organization, or if both have the same seniority, by the Deputy Director-General who is older.”

Delegation of authority by the Director-General

Addition of a new paragraph 5 to **Rule XXXVII** of the GRO:

“Functions of the Director-General

(...)

5. The Director-General may delegate authority and responsibility conferred upon him by this Rule to other officers of the Organization in accordance with the agreed principle of delegation of authority to the lowest appropriate levels. The Director-General shall remain accountable to the Conference and Council for the direction of the work of the Organization, in accordance with Article VII, paragraph 4 of the Constitution.”

Appointment to the posts of Deputy Directors-General

Revised paragraph 1 of **Rule XXXIX** of the GRO:

“Provisions relating to staff

1. The staff of the Organization shall be appointed by the Director-General, having regard to paragraph 3 of Article VIII of the Constitution. Selection and remuneration shall be made without regard to race, nationality, creed or sex. The terms and conditions of appointment shall be fixed in contracts concluded between the Director-General and each member of the staff. Appointments to the posts of Deputy Directors-General shall be made by the Director-General, subject to confirmation by the Council.

(...)”

2. Instructs the secretariat to make editorial adjustments *inter alia* to Rules II, III, VI, VII, VIII, IX, X, XI, XII, XIII, XIV, XV, XVI, XVII, XXIII, XXIV, XXV, XXVI, XXVII, XXIX, XXX, XXXI, XXXII, XXXIII, and XXXIV of the General Rules of the Organization in order to use the word “*Chairperson*” instead of “*Chairman*”, “*Chairpersons*” instead of “*Chairmen*”, “*Vice-Chairperson*” instead of “*Vice-Chairman*”, and “*Vice-Chairpersons*” instead of “*Vice-Chairmen*”.

3. Instructs the secretariat to make editorial adjustments in order to renumber Rules, paragraphs and sub-paragraphs, to insert footnotes containing references to the Conference resolutions as appropriate, and to modify Rule references as appropriate.
4. Decides to adopt the following amendments to the Financial Regulations³:

Revised cycle of Programme and Budget preparation and of Governing Body sessions and elimination of the summary Programme of Work and Budget

Revised paragraphs 4 to 6 of **Financial Regulation III**:

“The budget

(...)

3.4 The Director-General shall submit to the regular session of the Conference detailed budget estimates for the ensuing financial period. The estimates shall be dispatched to all Member Nations and Associate Members not less than 90 ~~60~~ days before the date fixed for the opening of the session.

~~3.5 The Director-General shall arrange for the summary budget to be considered by the Council not less than 90 days before the date fixed for the opening of the regular session of the Conference.~~

~~3.56. The Council shall prepare a report to the Conference on the estimates submitted by the Director-General. This report shall be transmitted to all Member Nations and Associate Members at the same time as the estimates.~~

(other paragraphs to be renumbered)”

³ Deletions are indicated using ~~struck out text~~ and insertions are indicated using *underlined italics*.

APPENDIX IV

**A. PROPOSED CONFERENCE RESOLUTION ON THE
IMPLEMENTATION OF THE IPA ACTIONS
REGARDING THE CONFERENCE
(IPA Actions 2.5, 2.6 and to 2.10)**

**“CONFERENCE RESOLUTION
Implementation of the actions of the Immediate Action Plan (IPA) for FAO
Renewal (2009-11) regarding the Conference of FAO**

The Conference:

Considering that Conference Resolution 1/2008 “Adoption of the Immediate Plan of Action (IPA) for FAO Renewal (2009-11)” called for a number of actions regarding the Conference;

Considering that, in accordance with the IPA, the Conference will remain the ultimate decision making body of the Organization, determine its overall policy and strategy and take the final decision on objectives, strategy and budget;

Considering further that a series of measures were agreed to make the Conference more action oriented, focused and attractive to participation by Ministers and senior officials and to emphasize its distinctive functions, thus reducing duplicative discussions and overlapping of roles with the Council;

Noting that while such measures do not involve amendments to the Constitution and the General Rules of the Organization, given the manner in which the functions of the Conference, as the supreme body of the Organization are defined, it would be nevertheless appropriate to reflect in a Conference Resolution some distinct features of the Conference future role in accordance with the spirit of the IPA:

1. Decides that, without prejudice to the statutory functions defined in the Constitution and the General Rules of the Organization, each session of the Conference will usually have one major theme, normally defined on the recommendation of the Council;
2. Decides that, without prejudice to the statutory functions defined in the Constitution and the General Rules of the Organization, the Conference will give more attention to global policy issues and international regulatory frameworks, acting normally on the recommendation of the Technical Committees and Regional Conferences and, where appropriate, the Council;
3. Decides that plenary meetings of the Conference should be more focused on issues of interest to Members.”

B. PROPOSED CONFERENCE RESOLUTION REGARDING THE COUNCIL OF FAO

“CONFERENCE RESOLUTION

Implementation of the actions of the Immediate Plan of Action (IPA) for FAO Renewal (2009-11) regarding the Council of FAO

The Conference:

Considering that Conference Resolution 1/2008 “Adoption of the Immediate Plan of Action for FAO Renewal (2009-11)” called for a reform of the Council;

Considering further that, in accordance with the IPA, the Council should play a more dynamic role in the development of the programme and budget, drawing as appropriate on the advice of the Programme and Finance Committees, and increase its oversight and monitoring function over the implementation of governance decisions;

Noting that, in such context, the Council will have a major role in deciding and advising on matters pertaining to the implementation of programme and budget execution, monitoring of activities under the new results-based framework, monitoring of implementation of governance decisions and oversight of the administration of the Organization;

Noting further that amendments to Rules XXIV and XXV of the General Rules of the Organization have been adopted by the Conference to implement the actions of the IPA regarding the Council;

Realizing that it is desirable, under the framework established by the above provisions, and in the light of the spirit of the IPA, to clarify the new role of the Council under that framework:

1. Decides that the Council will exercise a major role in respect of:
 - (a) planning of work and definition of performance measures for the Council itself and for other Governing Bodies with the exception of the Conference;
 - (b) monitoring and reporting performance against performance indicators for the Council itself and for other Governing Bodies with the exception of the Conference;
 - (c) defining strategy, priorities and establishing the budget of the Organization;
 - (d) overseeing the implementation of the new Programming, Budget and Results Based Monitoring System;
 - (e) approving and overseeing any major organizational changes which do not require approval by the Conference.
2. Decides that the Council will monitor the implementation of governance decisions.
3. Decides that, in the context of its oversight functions, the Council will ensure that:

- (a) the Organization operates within its legal and financial framework;
 - (b) there is transparent, independent and professional audit and ethics oversight;
 - (c) there is transparent, professional and independent evaluation of the Organization's performance;
 - (d) there are functioning results-based budgeting and management systems;
 - (e) appropriate and functional policies and systems are in place for human resources management, information and communication technology, contracting and purchasing; and
 - (f) extra-budgetary resources are effectively contributing to the Strategic Objectives and the Organizational Results Framework.
4. Decides that the Council will monitor the performance of the Organization against established performance targets.
5. Decides that in the performance of its functions, the Council shall generally, act in close cooperation with the appropriate specialized agencies and intergovernmental bodies”.

**C. PROPOSED CONFERENCE RESOLUTION ON THE
INDEPENDENT CHAIRPERSON OF THE COUNCIL**
(IPA Actions 2.26 to 2.34)

“CONFERENCE RESOLUTION
Independent Chairperson of the Council

The Conference:

Having noted that according to Article V, paragraph 2 of the Constitution the Independent Chairperson of the Council is appointed by the Conference and exercises such functions as are inherent in that office, or are otherwise defined in the Basic Texts of the Organization,

Having regard to Rule XXIII of the General Rules of the Organization;

Having noted that, through the Immediate Plan of Action (IPA) for FAO Renewal (2009-2011) adopted by Resolution 1/2008, the Conference decided that the Independent Chairperson of the Council should play an enhanced role in facilitating the exercise by the Council of its governance functions and oversight of the administration of the Organization, and “drive forward the continuous improvement of the efficiency, effectiveness and ownership of governance by the membership of the Organization”;

Conscious of the need to ensure that an enhanced role of the Independent Chairperson of the Council should not create any potential for conflict of roles

with the managerial functions of the Director-General in the administration of the Organization, as called for by the IPA;

Mindful that the IPA Actions regarding the Independent Chairperson of the Council should be clarified in a resolution and be implemented in the above spirit;

Decides that:

1. The Independent Chairperson of the Council shall, under the framework established by the Constitution and the General Rules of the Organization regarding the status and functions of the office, and without restricting in any manner the general nature of those functions:

- (a) whenever necessary, take such steps as may be required to facilitate and achieve consensus among Member Nations, especially on important or controversial issues;
- (b) liaise with the Chairpersons of the Programme Committee, the Finance Committee and the Committee on Constitutional and Legal Matters regarding the work programmes of these Committees as well as, as appropriate, with the Chairpersons of the Technical Committees and Regional Conferences. Insofar as possible the Independent Chairperson of the Council shall attend the sessions of the Programme Committee, Finance Committee and Regional Conferences;
- (c) as required or appropriate, convene informal consultations with representatives of Member Nations on issues of an administrative and organizational nature for the preparation and conduct of Council sessions;
- (d) liaise with the Director-General and other senior officials of the Organization in respect of any concerns of the membership, as expressed through the Council, Programme Committee, Finance Committee and Regional Conferences;
- (e) ensure that the Council is kept informed of developments in other fora of relevance for FAO's mandate and that dialogue is maintained with other Governing Bodies as appropriate, in particular the Governing Bodies of the organizations based in Rome dealing with food and agriculture.

2. In nominating candidates for the office of Independent Chairperson of the Council, Member Nations should have regard to the qualities that the Chairperson should possess, including among others ability to be objective, sensitivity to political, social and cultural differences, and appropriate experience in areas relevant to the Organization's work.

3. The Independent Chairperson of the Council shall be required to be present in Rome for all sessions of the Council and will normally be expected to spend at least six to eight months of the year in Rome."

**D. PROPOSED CONFERENCE RESOLUTION ON REFORM OF
PROGRAMMING, BUDGETING AND RESULTS BASED
MONITORING**
(IPA Actions 3.1 to 3.11)

“CONFERENCE RESOLUTION
Reform of Programming, Budgeting and Results-Based Monitoring
System

The Conference:

Considering that Conference Resolution 1/2008 “Adoption of the Immediate Plan of Action (IPA) for FAO Renewal (2009-11)” called for a reform of programming, budgeting and results-based monitoring;

Noting that this decision involves amendments to the Basic Texts, in particular to the General Rules of the Organization and the Financial Regulations, to make provision for the Strategic Framework as well as the Medium Term Plan and establish a basis for revised arrangements for the preparation of the Programme of Work and Budget;

Noting further that it is highly desirable to define in a resolution of the Conference the main features of the new Programming, Budgeting and Results-Based Monitoring System while allowing for the necessary managerial flexibility;

Noting also that the new Programming, Budgeting and Results-Based Monitoring System involves important changes in the cycle of sessions of the Governing Bodies of the Organization, in particular of the Conference in accordance with amendments made to Rule I, paragraph 1 of the General Rules of the Organization, and of the Council in accordance with amended Rule XXV of the General Rules of the Organization;

Emphasizing that, under the above revised Rules, and the framework established by the General Rules of the Organization and the Rules of Procedure of the Programme and the Finance Committees, the Technical Committees and the Regional Conferences will need to change the cycle of their sessions in order to play their due roles in the new Programming, Budgeting and Results-Based Monitoring System;

1. Decides to introduce revised programme and budget documentation consisting of the following components which, as appropriate, could be incorporated in a single document:

- (a) a Strategic Framework prepared for a period of ten to fifteen years, reviewed every four years and including, inter alia, an analysis of the challenges facing food, agriculture and rural development and populations dependent thereon, including consumers; a strategic vision, the goals of Members in areas of FAO’s mandate, as well as Strategic Objectives to be achieved by Members and the international community with support from FAO, including targets and indicators of achievement;
- (b) a Medium Term Plan covering a period of four years and reviewed each biennium, including:

- (i) Strategic Objectives for achievement by Members and the international community with support from FAO, in accordance with the Strategic Framework;
 - (ii) Frameworks for organizational results including specific outcomes which shall contribute to the achievement of the Strategic Objectives by FAO Members and the international community. Insofar as possible organizational results will have specific achievement targets, performance indicators, relevant assumptions, show the contribution of FAO and indicate the budgetary provisions from assessed contributions and estimated extra-budgetary resources, which may condition the attainment of targets. Gender will be fully integrated into the Strategic-Framework and Medium Term Plan and will no longer have a separate Gender and Development Plan of Action;
 - (iii) an identification of impact focus areas, as priority groups of results aimed at mobilizing extra-budgetary resources, improving oversight of extra-budgetary resources in key impact areas and increasing coherence between activities financed by the Regular Programme and extra-budgetary resources;
 - (iv) functional objectives aimed at ensuring that organizational processes and administration work towards improvements in a results-based framework.
- (c) a Programme of Work and Budget covering biennial periods, clearly identifying the share of resources devoted to administrative work, anchored in a results-based framework and including the following elements:
- (i) organizational results framework (outcomes) established in accordance with the Medium Term Plan, including organizational responsibility for each result;
 - (ii) quantification of costs for all organizational results and related commitments;
 - (iii) calculation of cost increases and planned efficiency gains;
 - (iv) provision for long-term liabilities and reserve funds;
 - (v) a draft Conference resolution of approval of the programme of work and the appropriations.

2. Decides to introduce a revised system of monitoring of performance based on achievement of planned results, including a revised biennial Programme Implementation Report. Each report will cover the previous biennium and provide information on delivery, targets and indicators of results, as well as efficiency indicators for functional objectives.

3. Decides to introduce a revised schedule of sessions of the Governing Bodies of the Organization for the implementation of the new Programming, Budgeting and Results-Based Monitoring system. The revised schedule of sessions will take into account the fact that the Conference shall hold its regular

session in June of the year prior to the beginning of the biennium and will allow 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. The new schedule of sessions of the Governing Bodies will be generally in accordance with the attached table, subject however to necessary adjustments to meet unforeseen circumstances or particular requirements.”

E. PROPOSED CONFERENCE RESOLUTION ON MINISTERIAL MEETINGS

(IPA Actions 2.66 and 2.67)

**“CONFERENCE RESOLUTION
Ministerial Meetings**

The Conference:

Having noted that “Ministerial Meetings” have been held occasionally after sessions of standing committees, established under Article V, paragraph 6 of the Constitution,

Having noted further the need to clarify the conditions regarding the convening of such “Ministerial Meetings” in the future, as called for by the Immediate Plan of Action for FAO Renewal (2009-2011),

Recalling Article V, paragraph 5 of the Constitution,

Decides:

1. Ministerial Meetings, held in conjunction with sessions of technical committees established under Article V, paragraph 6 of the Constitution, may be convened from time to time as decided by the Conference or Council, when matters developed at technical level are deemed to require political endorsement or visibility.
2. Subject to the decision of Conference or Council, Ministerial Meetings should not deal with programme and budget matters which are addressed in the context of the programme of work and budget process, nor with matters primarily of a regional, technical or scientific nature which are normally considered by statutory bodies of the Organization.
3. Ministerial Meetings shall normally report to the Conference, except that any relevant issues having programme or budget implications shall be referred to the Council.”

F. PROPOSED DEFINITION OF GOVERNING BODIES

(IPA Action 2.73)

“The Governing Bodies of FAO are the bodies which directly, or indirectly through their parent bodies, contribute within their respective mandates, to (a) the definition of the overall policies and regulatory frameworks of the Organization; (b) the establishment of the Strategic Framework, the Medium-

Term Plan and the Programme of Work and Budget and (c) exercise, or contribute to the oversight of the administration of the Organization. The Governing Bodies comprise the Conference, the Council, the Programme Committee, the Finance Committee, the Committee on Constitutional and Legal Matters, the Technical Committees referred to in Article V, paragraph 6 (b) of the Constitution and the Regional Conferences (i.e. for Africa, Asia and the Pacific, Europe, Latin America and the Caribbean, and the Near East).”

G. PROPOSED STRUCTURE OF VOLUME II OF THE BASIC TEXTS

<p align="center">BASIC TEXTS – VOLUME II CURRENT STRUCTURE</p>	<p align="center">BASIC TEXTS – VOLUME II REVISED STRUCTURE</p>
	<p>A. Conference Resolution 7/99 Use of Gender-Neutral Language in the Basic Texts</p>
	<p>B. Definition of Governing Bodies</p> <p>C. Conference Resolution on the Implementation of the IPA Actions Regarding the Conference</p> <p>D. Conference Resolution on the Implementation of the IPA Actions Regarding the Council of FAO</p> <p>E. Conference Resolution on the Independent Chairperson of the Council</p> <p>F. Conference Resolution on Reform of Programming, Budgeting and Results Based Monitoring</p> <p>G. Conference Resolution on Ministerial Meetings</p> <p>H. Charter for the FAO Office of Evaluation</p>
<p>L. Granting of Observer Status (in Respect of Nations)</p>	<p>I. Granting of Observer Status (in Respect of Nations)</p>

<p>M. Cooperation with International Governmental Organizations</p> <p>N. Guiding Lines Regarding Relationship Agreements between FAO and Intergovernmental Organizations</p> <p>O. Cooperation with International Non-Governmental Organizations</p> <p>P. FAO Policy Concerning Relations with International Non-Governmental Organizations</p> <p>Q. Granting of Observer Status (in Respect of International Governmental and Non-Governmental Organizations)</p>	<p>J. Cooperation with International Governmental Organizations</p> <p>K. Guiding Lines Regarding Relationship Agreements between FAO and Intergovernmental Organizations</p> <p>L. Cooperation with International Non-Governmental Organizations*</p> <p>M. FAO Policy Concerning Relations with International Non-Governmental Organizations*</p> <p>N. Granting of Observer Status (in Respect of International Governmental and Non-Governmental Organizations) *</p>
<p>R. Principles and Procedures which Should Govern Conventions and Agreements Concluded Under Articles XIV and XV of the Constitution, and Commissions and Committees Established Under Article VI of the Constitution</p>	<p>O. Principles and Procedures which Should Govern Conventions and Agreements Concluded Under Articles XIV and XV of the Constitution, and Commissions and Committees Established Under Article VI of the Constitution*</p>
<p>S. Authority, Terms of Reference and Constitutional Status of Regional Conferences</p>	<p><i>(Deleted in light of new Rule XXXV of the GRO)</i></p>
<p>T. FAO Policy Regarding Assistance in Establishing Regional Research and Training Institutes</p>	<p>P. FAO Policy Regarding Assistance in Establishing Regional Research and Training Institutes</p>
<p>U. Alphabetical Index</p>	<p>Q. Alphabetical Index</p>

* This procedure might be subject to further review in the future.

APPENDIX V

The Conference adopted the following resolution:

Resolution.../...

Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing

THE CONFERENCE,

Considering that the Council, at its Hundred and Thirty Second Session held in June 2007, noted that illegal, unreported and unregulated (IUU) fishing remained a serious concern and welcomed the initiative to start a process leading to the adoption of a legally-binding international agreement establishing control measures in ports and that such agreement be based on the FAO Model Scheme to Combat Illegal, Unreported and Unregulated Fishing;

Noting that a draft Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing developed by the FAO Expert Consultation to Draft a Legally-binding Instrument on Port State Measures in September 2007 served as a basis for the review and elaboration by the Technical Consultation to Draft a Legally-binding Instrument on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, held initially in June 2008, with resumed sessions in January, May and August 2009;

Recognizing that the Twenty-eighth Session of the Committee on Fisheries in March 2009 urged that the legally binding instrument be concluded as soon as possible;

Acknowledging that the Council, subsequently, at its Hundred and Thirty-sixth Session in June 2009 underscored the importance of combating IUU fishing including the early finalization of a legally-binding instrument on port State measures;

Acknowledging further that the text of the draft Agreement was finalized on 28 August 2009 by the Technical Consultation to Draft a Legally-binding Instrument on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing;

Having considered the Report of the Eighty-eighth Session of the Committee on Constitutional and Legal Matters held in September 2009;

Having examined the text of the draft Agreement submitted by the Hundred and Thirty Seventh Session of the Council held in September and October 2009:

1. **Approves**, in accordance with Article XIV, paragraph 1 of the Constitution of FAO, the text of the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal,

Unreported and Unregulated Fishing, reproduced as Appendix to this report, for submission to FAO Members;

2. **Acclaims** the Agreement as a milestone in the international efforts to ensure responsible and sustainable fisheries, in particular, in international efforts to prevent, deter and eliminate IUU fishing;

4. **Urges** Members to sign and ratify, accept, approve or accede to the Agreement as soon as possible so as to bring it into force at the earliest possible time; and

5. **Commends** the Director-General for the speedy action taken to bring the Agreement to fruition and calls on him to take all necessary measures to ensure that the Agreement is given full and active implementation.

(Adopted on XX November 2009)

AGREEMENT ON PORT STATE MEASURES TO PREVENT, DETER AND ELIMINATE ILLEGAL, UNREPORTED AND UNREGULATED FISHING

PREAMBLE

The Parties to this Agreement,

Deeply concerned about the continuation of illegal, unreported and unregulated fishing and its detrimental effect upon fish stocks, marine ecosystems and the livelihoods of legitimate fishers, and the increasing need for food security on a global basis,

Conscious of the role of the port State in the adoption of effective measures to promote the sustainable use and the long-term conservation of living marine resources,

Recognizing that measures to combat illegal, unreported and unregulated fishing should build on the primary responsibility of flag States and use all available jurisdiction in accordance with international law, including port State measures, coastal State measures, market related measures and measures to ensure that nationals do not support or engage in illegal, unreported and unregulated fishing,

Recognizing that port State measures provide a powerful and cost-effective means of preventing, deterring and eliminating illegal, unreported and unregulated fishing,

Aware of the need for increasing coordination at the regional and interregional levels to combat illegal, unreported and unregulated fishing through port State measures,

Acknowledging the rapidly developing communications technology, databases, networks and global records that support port State measures,

Recognizing the need for assistance to developing countries to adopt and implement port State measures,

Taking note of the calls by the international community through the United Nations System, including the United Nations General Assembly and the Committee on Fisheries of the Food and Agriculture Organization of the United Nations, hereinafter referred to as 'FAO', for a binding international instrument on minimum standards for port State measures, based on the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing and the 2005 FAO Model Scheme on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing,

Bearing in mind that, in the exercise of their sovereignty over ports located in their territory, States may adopt more stringent measures, in accordance with international law,

Recalling the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982, hereinafter referred to as the 'Convention',

Recalling the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 4 December 1995, the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas of 24 November 1993 and the 1995 FAO Code of Conduct for Responsible Fisheries,

Recognizing the need to conclude an international agreement within the framework of FAO, under Article XIV of the FAO Constitution,

Have agreed as follows:

PART 1

GENERAL PROVISIONS

Article 1

Use of terms

For the purposes of this Agreement:

- (a) "conservation and management measures" means measures to conserve and manage living marine resources that are adopted and applied consistently with the relevant rules of international law including those reflected in the Convention;
- (b) "fish" means all species of living marine resources, whether processed or not;
- (c) "fishing" means searching for, attracting, locating, catching, taking or harvesting fish or any activity which can reasonably be expected to result in the attracting, locating, catching, taking or harvesting of fish;

- (d) “fishing related activities” means any operation in support of, or in preparation for, fishing, including the landing, packaging, processing, transshipping or transporting of fish that have not been previously landed at a port, as well as the provisioning of personnel, fuel, gear and other supplies at sea;
- (e) “illegal, unreported and unregulated fishing” refers to the activities set out in paragraph 3 of the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, hereinafter referred to as ‘IUU’ fishing;
- (f) “Party” means a State or regional economic integration organization that has consented to be bound by this Agreement and for which this Agreement is in force;
- (g) “port” includes offshore terminals and other installations for landing, transshipping, packaging, processing, refuelling or resupplying;
- (h) “regional economic integration organization” means a regional economic integration organization to which its member States have transferred competence over matters covered by this Agreement, including the authority to make decisions binding on its member States in respect of those matters;
- (i) “regional fisheries management organization” means an intergovernmental fisheries organization or arrangement, as appropriate, that has the competence to establish conservation and management measures; and
- (j) “vessel” means any vessel, ship of another type or boat used for, equipped to be used for, or intended to be used for, fishing or fishing related activities.

Article 2 Objective

The objective of this Agreement is to prevent, deter and eliminate IUU fishing through the implementation of effective port State measures, and thereby to ensure the long-term conservation and sustainable use of living marine resources and marine ecosystems.

Article 3 Application

1. Each Party shall, in its capacity as a port State, apply this Agreement in respect of vessels not entitled to fly its flag that are seeking entry to its ports or are in one of its ports, except for:
 - (a) vessels of a neighbouring State that are engaged in artisanal fishing for subsistence, provided that the port State and the flag State cooperate to ensure that such vessels do not engage in IUU fishing or fishing related activities in support of such fishing ; and

- (b) container vessels that are not carrying fish or, if carrying fish, only fish that have been previously landed, provided that there are no clear grounds for suspecting that such vessels have engaged in fishing related activities in support of IUU fishing.
2. A Party may, in its capacity as a port State, decide not to apply this Agreement to vessels chartered by its nationals exclusively for fishing in areas under its national jurisdiction and operating under its authority therein. Such vessels shall be subject to measures by the Party which are as effective as measures applied in relation to vessels entitled to fly its flag.
3. This Agreement shall apply to fishing conducted in marine areas that is illegal, unreported or unregulated, as defined in Article 1(e) of this Agreement, and to fishing related activities in support of such fishing.
4. This Agreement shall be applied in a fair, transparent and non-discriminatory manner, consistent with international law.
5. As this Agreement is global in scope and applies to all ports, the Parties shall encourage all other entities to apply measures consistent with its provisions. Those that may not otherwise become Parties to this Agreement may express their commitment to act consistently with its provisions.

Article 4

Relationship with international law and other international instruments

1. Nothing in this Agreement shall prejudice the rights, jurisdiction and duties of Parties under international law. In particular, nothing in this Agreement shall be construed to affect:
 - (a) the sovereignty of Parties over their internal, archipelagic and territorial waters or their sovereign rights over their continental shelf and in their exclusive economic zones;
 - (b) the exercise by Parties of their sovereignty over ports in their territory in accordance with international law, including their right to deny entry thereto as well as to adopt more stringent port State measures than those provided for in this Agreement, including such measures adopted pursuant to a decision of a regional fisheries management organization.
2. In applying this Agreement, a Party does not thereby become bound by measures or decisions of, or recognize, any regional fisheries management organization of which it is not a member.
3. In no case is a Party obliged under this Agreement to give effect to measures or decisions of a regional fisheries management organization if those measures or decisions have not been adopted in conformity with international law.
4. This Agreement shall be interpreted and applied in conformity with international law taking into account applicable international rules and standards, including those

established through the International Maritime Organization, as well as other international instruments.

5. Parties shall fulfil in good faith the obligations assumed pursuant to this Agreement and shall exercise the rights recognized herein in a manner that would not constitute an abuse of right.

Article 5 **Integration and coordination at the national level**

Each Party shall, to the greatest extent possible:

- (a) integrate or coordinate fisheries related port State measures with the broader system of port State controls;
- (b) integrate port State measures with other measures to prevent, deter and eliminate IUU fishing and fishing related activities in support of such fishing, taking into account as appropriate the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing; and
- (c) take measures to exchange information among relevant national agencies and to coordinate the activities of such agencies in the implementation of this Agreement.

Article 6 **Cooperation and exchange of information**

1. In order to promote the effective implementation of this Agreement and with due regard to appropriate confidentiality requirements, Parties shall cooperate and exchange information with relevant States, FAO, other international organizations and regional fisheries management organizations, including on the measures adopted by such regional fisheries management organizations in relation to the objective of this Agreement.

2. Each Party shall, to the greatest extent possible, take measures in support of conservation and management measures adopted by other States and other relevant international organizations.

3. Parties shall cooperate, at the subregional, regional and global levels, in the effective implementation of this Agreement including, where appropriate, through FAO or regional fisheries management organizations and arrangements.

PART 2

ENTRY INTO PORT

Article 7 Designation of ports

1. Each Party shall designate and publicize the ports to which vessels may request entry pursuant to this Agreement. Each Party shall provide a list of its designated ports to FAO, which shall give it due publicity.
2. Each Party shall, to the greatest extent possible, ensure that every port designated and publicized in accordance with paragraph 1 of this Article has sufficient capacity to conduct inspections pursuant to this Agreement.

Article 8 Advance request for port entry

1. Each Party shall require, as a minimum standard, the information requested in Annex A to be provided before granting entry to a vessel to its port.
2. Each Party shall require the information referred to in paragraph 1 of this Article to be provided sufficiently in advance to allow adequate time for the port State to examine such information.

Article 9 Port entry, authorization or denial

1. After receiving the relevant information required pursuant to Article 8, as well as such other information as it may require to determine whether the vessel requesting entry into its port has engaged in IUU fishing or fishing related activities in support of such fishing, each Party shall decide whether to authorize or deny the entry of the vessel into its port and shall communicate this decision to the vessel or to its representative.
2. In the case of authorization of entry, the master of the vessel or the vessel's representative shall be required to present the authorization for entry to the competent authorities of the Party upon the vessel's arrival at port.
3. In the case of denial of entry, each Party shall communicate its decision taken pursuant to paragraph 1 of this Article to the flag State of the vessel and, as appropriate and to the extent possible, relevant coastal States, regional fisheries management organizations and other international organizations.
4. Without prejudice to paragraph 1 of this Article, when a Party has sufficient proof that a vessel seeking entry into its port has engaged in IUU fishing or fishing related activities in support of such fishing, in particular the inclusion of a vessel on a list of vessels having engaged in such fishing or fishing related activities adopted by a relevant regional fisheries management organization in accordance with the rules and procedures of such organization and in conformity with international law, the Party shall deny that vessel entry into its ports, taking into due account paragraphs 2 and 3 of Article 4.

5. Notwithstanding paragraphs 3 and 4 of this Article, a Party may allow entry into its ports of a vessel referred to in those paragraphs exclusively for the purpose of inspecting it and taking other appropriate actions in conformity with international law which are at least as effective as denial of port entry in preventing, deterring and eliminating IUU fishing and fishing related activities in support of such fishing.

6. Where a vessel referred to in paragraph 4 or 5 of this Article is in port for any reason, a Party shall deny such vessel the use of its ports for landing, transshipping, packaging, and processing of fish and for other port services including, *inter alia*, refuelling and resupplying, maintenance and drydocking. Paragraphs 2 and 3 of Article 11 apply *mutatis mutandis* in such cases. Denial of such use of ports shall be in conformity with international law.

Article 10

Force majeure or distress

Nothing in this Agreement affects the entry of vessels to port in accordance with international law for reasons of force majeure or distress, or prevents a port State from permitting entry into port to a vessel exclusively for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

PART 3

USE OF PORTS

Article 11

Use of ports

1. Where a vessel has entered one of its ports, a Party shall deny, pursuant to its laws and regulations and consistent with international law, including this Agreement, that vessel the use of the port for landing, transshipping, packaging and processing of fish that have not been previously landed and for other port services, including, *inter alia*, refueling and resupplying, maintenance and drydocking, if:

- (a) the Party finds that the vessel does not have a valid and applicable authorization to engage in fishing or fishing related activities required by its flag State;
- (b) the Party finds that the vessel does not have a valid and applicable authorization to engage in fishing or fishing related activities required by a coastal State in respect of areas under the national jurisdiction of that State;
- (c) the Party receives clear evidence that the fish on board was taken in contravention of applicable requirements of a coastal State in respect of areas under the national jurisdiction of that State;

- (d) the flag State does not confirm within a reasonable period of time, on the request of the port State, that the fish on board was taken in accordance with applicable requirements of a relevant regional fisheries management organization taking into due account paragraphs 2 and 3 of Article 4; or
 - (e) the Party has reasonable grounds to believe that the vessel was otherwise engaged in IUU fishing or fishing related activities in support of such fishing, including in support of a vessel referred to in paragraph 4 of Article 9, unless the vessel can establish:
 - (i) that it was acting in a manner consistent with relevant conservation and management measures; or
 - (ii) in the case of provision of personnel, fuel, gear and other supplies at sea, that the vessel that was provisioned was not, at the time of provisioning, a vessel referred to in paragraph 4 of Article 9.
2. Notwithstanding paragraph 1 of this Article, a Party shall not deny a vessel referred to in that paragraph the use of port services:
- (a) essential to the safety or health of the crew or the safety of the vessel, provided these needs are duly proven, or
 - (b) where appropriate, for the scrapping of the vessel.
3. Where a Party has denied the use of its port in accordance with this Article, it shall promptly notify the flag State and, as appropriate, relevant coastal States, regional fisheries management organizations and other relevant international organizations of its decision.
4. A Party shall withdraw its denial of the use of its port pursuant to paragraph 1 of this Article in respect of a vessel only if there is sufficient proof that the grounds on which use was denied were inadequate or erroneous or that such grounds no longer apply.
5. Where a Party has withdrawn its denial pursuant to paragraph 4 of this Article, it shall promptly notify those to whom a notification was issued pursuant to paragraph 3 of this Article.

PART 4

INSPECTIONS AND FOLLOW-UP ACTIONS

Article 12

Levels and priorities for inspection

1. Each Party shall inspect the number of vessels in its ports required to reach an annual level of inspections sufficient to achieve the objective of this Agreement.
2. Parties shall seek to agree on the minimum levels for inspection of vessels through, as appropriate, regional fisheries management organizations, FAO or otherwise.

3. In determining which vessels to inspect, a Party shall give priority to:
 - (a) vessels that have been denied entry or use of a port in accordance with this Agreement;
 - (b) requests from other relevant Parties, States or regional fisheries management organizations that particular vessels be inspected, particularly where such requests are supported by evidence of IUU fishing or fishing related activities in support of such fishing by the vessel in question; and
 - (c) other vessels for which there are clear grounds for suspecting that they have engaged in IUU fishing or fishing related activities in support of such fishing.

Article 13 **Conduct of inspections**

1. Each Party shall ensure that its inspectors carry out the functions set forth in Annex B as a minimum standard.
2. Each Party shall, in carrying out inspections in its ports:
 - (a) ensure that inspections are carried out by properly qualified inspectors authorized for that purpose, having regard in particular to Article 17;
 - (b) ensure that, prior to an inspection, inspectors are required to present to the master of the vessel an appropriate document identifying the inspectors as such;
 - (c) ensure that inspectors examine all relevant areas of the vessel, the fish on board, the nets and any other gear, equipment, and any document or record on board that is relevant to verifying compliance with relevant conservation and management measures;
 - (d) require the master of the vessel to give inspectors all necessary assistance and information, and to present relevant material and documents as may be required, or certified copies thereof;
 - (e) in case of appropriate arrangements with the flag State of the vessel, invite that State to participate in the inspection;
 - (f) make all possible efforts to avoid unduly delaying the vessel to minimize interference and inconvenience, including any unnecessary presence of inspectors on board, and to avoid action that would adversely affect the quality of the fish on board;
 - (g) make all possible efforts to facilitate communication with the master or senior crew members of the vessel, including where possible and where needed that the inspector is accompanied by an interpreter;
 - (h) ensure that inspections are conducted in a fair, transparent and non-discriminatory manner and would not constitute harassment of any vessel; and

- (i) not interfere with the master's ability, in conformity with international law, to communicate with the authorities of the flag State.

Article 14 **Results of inspections**

Each Party shall, as a minimum standard, include the information set out in Annex C in the written report of the results of each inspection.

Article 15 **Transmittal of inspection results**

Each Party shall transmit the results of each inspection to the flag State of the inspected vessel and, as appropriate, to:

- (a) relevant Parties and States, including:
 - (i) those States for which there is evidence through inspection that the vessel has engaged in IUU fishing or fishing related activities in support of such fishing within waters under their national jurisdiction; and
 - (ii) the State of which the vessel's master is a national;
- (b) relevant regional fisheries management organizations; and
- (c) FAO and other relevant international organizations.

Article 16 **Electronic exchange of information**

1. To facilitate implementation of this Agreement, each Party shall, where possible, establish a communication mechanism that allows for direct electronic exchange of information, with due regard to appropriate confidentiality requirements.
2. To the extent possible and with due regard to appropriate confidentiality requirements, Parties should cooperate to establish an information-sharing mechanism, preferably coordinated by FAO, in conjunction with other relevant multilateral and intergovernmental initiatives, and to facilitate the exchange of information with existing databases relevant to this Agreement.
3. Each Party shall designate an authority that shall act as a contact point for the exchange of information under this Agreement. Each Party shall notify the pertinent designation to FAO.
4. Each Party shall handle information to be transmitted through any mechanism established under paragraph 1 of this Article consistent with Annex D.

5. FAO shall request relevant regional fisheries management organizations to provide information concerning the measures or decisions they have adopted and implemented which relate to this Agreement for their integration, to the extent possible and taking due account of the appropriate confidentiality requirements, into the information-sharing mechanism referred to in paragraph 2 of this Article.

Article 17 **Training of inspectors**

Each Party shall ensure that its inspectors are properly trained taking into account the guidelines for the training of inspectors in Annex E. Parties shall seek to cooperate in this regard.

Article 18 **Port State actions following inspection**

1. Where, following an inspection, there are clear grounds for believing that a vessel has engaged in IUU fishing or fishing related activities in support of such fishing, the inspecting Party shall:

- (a) promptly notify the flag State and, as appropriate, relevant coastal States, regional fisheries management organizations and other international organizations, and the State of which the vessel's master is a national of its findings; and
- (b) deny the vessel the use of its port for landing, transshipping, packaging and processing of fish that have not been previously landed and for other port services, including, *inter alia*, refuelling and resupplying, maintenance and drydocking, if these actions have not already been taken in respect of the vessel, in a manner consistent with this Agreement, including Article 4.

2. Notwithstanding paragraph 1 of this Article, a Party shall not deny a vessel referred to in that paragraph the use of port services essential for the safety or health of the crew or the safety of the vessel.

3. Nothing in this Agreement prevents a Party from taking measures that are in conformity with international law in addition to those specified in paragraphs 1 and 2 of this Article, including such measures as the flag State of the vessel has expressly requested or to which it has consented.

Article 19 **Information on recourse in the port State**

1. A Party shall maintain the relevant information available to the public and provide such information, upon written request, to the owner, operator, master or representative of a vessel with regard to any recourse established in accordance with its national laws and regulations concerning port State measures taken by that Party pursuant to Article 9, 11, 13 or 18, including information pertaining to the public services or judicial institutions available for this purpose, as well as information on whether there is any right to seek

compensation in accordance with its national laws and regulations in the event of any loss or damage suffered as a consequence of any alleged unlawful action by the Party.

2. The Party shall inform the flag State, the owner, operator, master or representative, as appropriate, of the outcome of any such recourse. Where other Parties, States or international organizations have been informed of the prior decision pursuant to Article 9, 11, 13 or 18, the Party shall inform them of any change in its decision.

PART 5

ROLE OF FLAG STATES

Article 20

Role of flag States

1. Each Party shall require the vessels entitled to fly its flag to cooperate with the port State in inspections carried out pursuant to this Agreement.

2. When a Party has clear grounds to believe that a vessel entitled to fly its flag has engaged in IUU fishing or fishing related activities in support of such fishing and is seeking entry to or is in the port of another State, it shall, as appropriate, request that State to inspect the vessel or to take other measures consistent with this Agreement.

3. Each Party shall encourage vessels entitled to fly its flag to land, transship, package and process fish, and use other port services, in ports of States that are acting in accordance with, or in a manner consistent with this Agreement. Parties are encouraged to develop, including through regional fisheries management organizations and FAO, fair, transparent and non-discriminatory procedures for identifying any State that may not be acting in accordance with, or in a manner consistent with, this Agreement.

4. Where, following port State inspection, a flag State Party receives an inspection report indicating that there are clear grounds to believe that a vessel entitled to fly its flag has engaged in IUU fishing or fishing related activities in support of such fishing, it shall immediately and fully investigate the matter and shall, upon sufficient evidence, take enforcement action without delay in accordance with its laws and regulations.

5. Each Party shall, in its capacity as a flag State, report to other Parties, relevant port States and, as appropriate, other relevant States, regional fisheries management organizations and FAO on actions it has taken in respect of vessels entitled to fly its flag that, as a result of port State measures taken pursuant to this Agreement, have been determined to have engaged in IUU fishing or fishing related activities in support of such fishing.

6. Each Party shall ensure that measures applied to vessels entitled to fly its flag are at least as effective in preventing, deterring, and eliminating IUU fishing and fishing related activities in support of such fishing as measures applied to vessels referred to in paragraph 1 of Article 3.

PART 6

REQUIREMENTS OF DEVELOPING STATES

Article 21

Requirements of developing States

1. Parties shall give full recognition to the special requirements of developing States Parties in relation to the implementation of port State measures consistent with this Agreement. To this end, Parties shall, either directly or through FAO, other specialized agencies of the United Nations or other appropriate international organizations and bodies, including regional fisheries management organizations, provide assistance to developing States Parties in order to, *inter alia*:
 - (a) enhance their ability, in particular the least-developed among them and small island developing States, to develop a legal basis and capacity for the implementation of effective port State measures;
 - (b) facilitate their participation in any international organizations that promote the effective development and implementation of port State measures; and
 - (c) facilitate technical assistance to strengthen the development and implementation of port State measures by them, in coordination with relevant international mechanisms.
2. Parties shall give due regard to the special requirements of developing port States Parties, in particular the least-developed among them and small island developing States, to ensure that a disproportionate burden resulting from the implementation of this Agreement is not transferred directly or indirectly to them. In cases where the transfer of a disproportionate burden has been demonstrated, Parties shall cooperate to facilitate the implementation by the relevant developing States Parties of specific obligations under this Agreement.
3. Parties shall, either directly or through FAO, assess the special requirements of developing States Parties concerning the implementation of this Agreement.
4. Parties shall cooperate to establish appropriate funding mechanisms to assist developing States in the implementation of this Agreement. These mechanisms shall, *inter alia*, be directed specifically towards:
 - (a) developing national and international port State measures;
 - (b) developing and enhancing capacity, including for monitoring, control and surveillance and for training at the national and regional levels of port managers, inspectors, and enforcement and legal personnel;
 - (c) monitoring, control, surveillance and compliance activities relevant to port State measures, including access to technology and equipment; and

- (d) assisting developing States Parties with the costs involved in any proceedings for the settlement of disputes that result from actions they have taken pursuant to this Agreement.

5. Cooperation with and among developing States Parties for the purposes set out in this Article may include the provision of technical and financial assistance through bilateral, multilateral and regional channels, including South-South cooperation.

6. Parties shall establish an *ad hoc* working group to periodically report and make recommendations to the Parties on the establishment of funding mechanisms including a scheme for contributions, identification and mobilization of funds, the development of criteria and procedures to guide implementation, and progress in the implementation of the funding mechanisms. In addition to the considerations provided in this Article, the *ad hoc* working group shall take into account, *inter alia*:

- (a) the assessment of the needs of developing States Parties, in particular the least-developed among them and small island developing States;
- (b) the availability and timely disbursement of funds;
- (c) transparency of decision-making and management processes concerning fundraising and allocations; and
- (d) accountability of the recipient developing States Parties in the agreed use of funds.

Parties shall take into account the reports and any recommendations of the *ad hoc* working group and take appropriate action.

PART 7

DISPUTE SETTLEMENT

Article 22

Peaceful settlement of disputes

1. Any Party may seek consultations with any other Party or Parties on any dispute with regard to the interpretation or application of the provisions of this Agreement with a view to reaching a mutually satisfactory solution as soon as possible.

2. In the event that the dispute is not resolved through these consultations within a reasonable period of time, the Parties in question shall consult among themselves as soon as possible with a view to having the dispute settled by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice.

3. Any dispute of this character not so resolved shall, with the consent of all Parties to the dispute, be referred for settlement to the International Court of Justice, to the International Tribunal for the Law of the Sea or to arbitration. In the case of failure to reach agreement on referral to the International Court of Justice, to the International

Tribunal for the Law of the Sea or to arbitration, the Parties shall continue to consult and cooperate with a view to reaching settlement of the dispute in accordance with the rules of international law relating to the conservation of living marine resources.

PART 8

NON-PARTIES

Article 23

Non-Parties to this Agreement

1. Parties shall encourage non-Parties to this Agreement to become Parties thereto and/or to adopt laws and regulations and implement measures consistent with its provisions.
2. Parties shall take fair, non-discriminatory and transparent measures consistent with this Agreement and other applicable international law to deter the activities of non-Parties which undermine the effective implementation of this Agreement.

PART 9

MONITORING, REVIEW AND ASSESSMENT

Article 24

Monitoring, review and assessment

1. Parties shall, within the framework of FAO and its relevant bodies, ensure the regular and systematic monitoring and review of the implementation of this Agreement as well as the assessment of progress made towards achieving its objective.
2. Four years after the entry into force of this Agreement, FAO shall convene a meeting of the Parties to review and assess the effectiveness of this Agreement in achieving its objective. The Parties shall decide on further such meetings as necessary.

PART 10**FINAL PROVISIONS****Article 25
Signature**

This Agreement shall be open for signature at ** from ** until **, by all States and regional economic integration organizations.

**Article 26
Ratification, acceptance or approval**

1. This Agreement shall be subject to ratification, acceptance or approval by the signatories.
2. Instruments of ratification, acceptance or approval shall be deposited with the Depositary.

**Article 27
Accession**

1. After the period in which this Agreement is open for signature, it shall be open for accession by any State or regional economic integration organization.
2. Instruments of accession shall be deposited with the Depositary.

**Article 28
Participation by Regional Economic Integration Organizations**

1. In cases where a regional economic integration organization that is an international organization referred to in Annex IX, Article 1, of the Convention does not have competence over all the matters governed by this Agreement, Annex IX to the Convention shall apply *mutatis mutandis* to participation by such regional economic integration organization in this Agreement, except that the following provisions of that Annex shall not apply:

- (a) Article 2, first sentence; and
- (b) Article 3, paragraph 1.

2. In cases where a regional economic integration organization that is an international organization referred to in Annex IX, Article 1, of the Convention has competence over all the matters governed by this Agreement, the following provisions shall apply to participation by the regional economic integration organization in this Agreement:

- (a) at the time of signature or accession, such organization shall make a declaration stating:

- (i) that it has competence over all the matters governed by this Agreement;
 - (ii) that, for this reason, its member States shall not become States Parties, except in respect of their territories for which the organization has no responsibility; and
 - (iii) that it accepts the rights and obligations of States under this Agreement;
- (b) participation of such an organization shall in no case confer any rights under this Agreement on member States of the organization;
- (c) in the event of a conflict between the obligations of such organization under this Agreement and its obligations under the Agreement establishing the organization or any acts relating to it, the obligations under this Agreement shall prevail.

Article 29 **Entry into force**

1. This Agreement shall enter into force thirty days after the date of deposit with the Depositary of the twenty-fifth instrument of ratification, acceptance, approval or accession in accordance with Article 26 or 27.
2. For each signatory which ratifies, accepts or approves this Agreement after its entry into force, this Agreement shall enter into force thirty days after the date of the deposit of its instrument of ratification, acceptance or approval.
3. For each State or regional economic integration organization which accedes to this Agreement after its entry into force, this Agreement shall enter into force thirty days after the date of the deposit of its instrument of accession.
4. For the purposes of this Article, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by its Member States.

Article 30 **Reservations and exceptions**

No reservations or exceptions may be made to this Agreement.

Article 31 **Declarations and statements**

Article 30 does not preclude a State or regional economic integration organization, when signing, ratifying, accepting, approving or acceding to this Agreement, from making a declaration or statement, however phrased or named, with a view to, *inter alia*, the harmonization of its laws and regulations with the provisions of this Agreement, provided that such declaration or statement does not purport to exclude or to modify the

legal effect of the provisions of this Agreement in their application to that State or regional economic integration organization.

Article 32 **Provisional application**

1. This Agreement shall be applied provisionally by States or regional economic integration organizations which consent to its provisional application by so notifying the Depositary in writing. Such provisional application shall become effective from the date of receipt of the notification.

2. Provisional application by a State or regional economic integration organization shall terminate upon the entry into force of this Agreement for that State or regional economic integration organization or upon notification by that State or regional economic integration organization to the Depositary in writing of its intention to terminate provisional application.

Article 33 **Amendments**

1. Any Party may propose amendments to this Agreement after the expiry of a period of two years from the date of entry into force of this Agreement.

2. Any proposed amendment to this Agreement shall be transmitted by written communication to the Depositary along with a request for the convening of a meeting of the Parties to consider it. The Depositary shall circulate to all Parties such communication as well as all replies to the request received from Parties. Unless within six months from the date of circulation of the communication one half of the Parties object to the request, the Depositary shall convene a meeting of the Parties to consider the proposed amendment.

3. Subject to Article 34, any amendment to this Agreement shall only be adopted by consensus of the Parties present at the meeting at which it is proposed for adoption.

4. Subject to Article 34, any amendment adopted by the meeting of the Parties shall come into force among the Parties having ratified, accepted or approved it on the ninetieth day after the deposit of instruments of ratification, acceptance or approval by two-thirds of the Parties to this Agreement based on the number of Parties on the date of adoption of the amendment. Thereafter the amendment shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, acceptance or approval of the amendment.

5. For the purposes of this Article, an instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by its Member States.

Article 34

Annexes

1. The Annexes form an integral part of this Agreement and a reference to this Agreement shall constitute a reference to the Annexes.

2. An amendment to an Annex to this Agreement may be adopted by two-thirds of the Parties to this Agreement present at a meeting where the proposed amendment to the Annex is considered. Every effort shall however be made to reach agreement on any amendment to an Annex by way of consensus. An amendment to an Annex shall be incorporated in this Agreement and enter into force for those Parties that have expressed their acceptance from the date on which the Depositary receives notification of acceptance from one-third of the Parties to this Agreement, based on the number of Parties on the date of adoption of the amendment. The amendment shall thereafter enter into force for each remaining Party upon receipt by the Depositary of its acceptance.

Article 35

Withdrawal

Any Party may withdraw from this Agreement at any time after the expiry of one year from the date upon which the Agreement entered into force with respect to that Party, by giving written notice of such withdrawal to the Depositary. Withdrawal shall become effective one year after receipt of the notice of withdrawal by the Depositary.

Article 36

The Depositary

The Director-General of FAO shall be the Depositary of this Agreement. The Depositary shall:

- (a) transmit certified copies of this Agreement to each signatory and Party;
- (b) register this Agreement, upon its entry into force, with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations;
- (c) promptly inform each signatory and Party to this Agreement of all:
 - (i) signatures and instruments of ratification, acceptance, approval and accession deposited under Articles 25, 26 and 27;
 - (ii) the date of entry into force of this Agreement in accordance with Article 29;
 - (iii) proposals for amendment to this Agreement and their adoption and entry into force in accordance with Article 33;
 - (iv) proposals for amendment to the Annexes and their adoption and entry into force in accordance with Article 34; and
 - (v) withdrawals from this Agreement in accordance with Article 35.

Article 37
Authentic texts

The Arabic, Chinese, English, French, Russian and Spanish texts of this Agreement are equally authentic.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorized, have signed this Agreement.

DONE at **, on this ** day of **, 200*.

ANNEX A

Information to be provided in advance by vessels requesting port entry

1. Intended port of call										
2. Port State										
3. Estimated date and time of arrival										
4. Purpose(s)										
5. Port and date of last port call										
6. Name of the vessel										
7. Flag State										
8. Type of vessel										
9. International Radio Call Sign										
10. Vessel contact information										
11. Vessel owner(s)										
12. Certificate of registry ID										
13. IMO ship ID, if available										
14. External ID, if available										
15. RFMO ID, if applicable										
16. VMS		No			Yes: National		Yes: RFMO(s)		Type:	
17. Vessel dimensions			Length		Beam		Draft			
18. Vessel master name and nationality										
19. Relevant fishing authorization(s)										
<i>Identifier</i>	<i>Issued by</i>	<i>Validity</i>			<i>Fishing area(s)</i>	<i>Species</i>	<i>Gear</i>			
20. Relevant transshipment authorization(s)										
<i>Identifier</i>		<i>Issued by</i>			<i>Validity</i>					
<i>Identifier</i>		<i>Issued by</i>			<i>Validity</i>					
21. Transshipment information concerning donor vessels										
<i>Date</i>	<i>Location</i>	<i>Name</i>	<i>Flag State</i>	<i>ID number</i>	<i>Species</i>	<i>Product form</i>	<i>Catch area</i>	<i>Quantity</i>		
22. Total catch onboard							23. Catch to be offloaded			
<i>Species</i>	<i>Product form</i>	<i>Catch area</i>			<i>Quantity</i>		<i>Quantity</i>			

ANNEX B**Port State inspection procedures**

Inspectors shall:

- a) verify, to the extent possible, that the vessel identification documentation onboard and information relating to the owner of the vessel is true, complete and correct, including through appropriate contacts with the flag State or international records of vessels if necessary;
- b) verify that the vessel's flag and markings (e.g. name, external registration number, International Maritime Organization (IMO) ship identification number, international radio call sign and other markings, main dimensions) are consistent with information contained in the documentation;
- c) verify, to the extent possible, that the authorizations for fishing and fishing related activities are true, complete, correct and consistent with the information provided in accordance with Annex A;
- d) review all other relevant documentation and records held onboard, including, to the extent possible, those in electronic format and vessel monitoring system (VMS) data from the flag State or relevant regional fisheries management organizations (RFMOs). Relevant documentation may include logbooks, catch, transshipment and trade documents, crew lists, stowage plans and drawings, descriptions of fish holds, and documents required pursuant to the Convention on International Trade in Endangered Species of Wild Fauna and Flora;
- e) examine, to the extent possible, all relevant fishing gear onboard, including any gear stowed out of sight as well as related devices, and to the extent possible, verify that they are in conformity with the conditions of the authorizations. The fishing gear shall, to the extent possible, also be checked to ensure that features such as the mesh and twine size, devices and attachments, dimensions and configuration of nets, pots, dredges, hook sizes and numbers are in conformity with applicable regulations and that the markings correspond to those authorized for the vessel;
- f) determine, to the extent possible, whether the fish on board was harvested in accordance with the applicable authorizations;
- g) examine the fish, including by sampling, to determine its quantity and composition. In doing so, inspectors may open containers where the fish has been pre-packed and move the catch or containers to ascertain the integrity of fish holds. Such examination may include inspections of product type and determination of nominal weight;
- h) evaluate whether there is clear evidence for believing that a vessel has engaged in IUU fishing or fishing related activities in support of such fishing;

-
- i) provide the master of the vessel with the report containing the result of the inspection, including possible measures that could be taken, to be signed by the inspector and the master. The master's signature on the report shall serve only as acknowledgment of the receipt of a copy of the report. The master shall be given the opportunity to add any comments or objection to the report, and, as appropriate, to contact the relevant authorities of the flag State in particular where the master has serious difficulties in understanding the content of the report. A copy of the report shall be provided to the master; and
 - j) arrange, where necessary and possible, for translation of relevant documentation.

ANNEX C

Report of the results of the inspection

1. Inspection report no				2. Port State			
3. Inspecting authority							
4. Name of principal inspector				ID			
5. Port of inspection							
6. Commencement of inspection				<i>YYYY</i>	<i>MM</i>	<i>DD</i>	<i>HH</i>
7. Completion of inspection				<i>YYYY</i>	<i>MM</i>	<i>DD</i>	<i>HH</i>
8. Advanced notification received				<i>Yes</i>		<i>No</i>	
9. Purpose(s)		<i>LAN</i>	<i>TRX</i>	<i>PRO</i>	<i>OTH (specify)</i>		
10. Port and State and date of last port call					<i>YYYY</i>	<i>MM</i>	<i>DD</i>
11. Vessel name							
12. Flag State							
13. Type of vessel							
14. International Radio Call Sign							
15. Certificate of registry ID							
16. IMO ship ID, if available							
17. External ID , if available							
18. Port of registry							
19. Vessel owner(s)							
20. Vessel beneficial owner(s), if known and different from vessel owner							
21. Vessel operator(s), if different from vessel owner							
22. Vessel master name and nationality							
23. Fishing master name and nationality							
24. Vessel agent							
25. VMS		<i>No</i>	<i>Yes: National</i>	<i>Yes: RFMOs</i>	Type:		
26. Status in RFMO areas where fishing or fishing related activities have been undertaken, including any IUU vessel listing							
<i>Vessel identifier</i>	<i>RFMO</i>	<i>Flag State status</i>	<i>Vessel on authorized vessel list</i>		<i>Vessel on IUU vessel list</i>		
27. Relevant fishing authorization(s)							
<i>Identifier</i>	<i>Issued by</i>	<i>Validity</i>	<i>Fishing area(s)</i>	<i>Species</i>	<i>Gear</i>		

28. Relevant transshipment authorization(s)						
<i>Identifier</i>		<i>Issued by</i>		<i>Validity</i>		
<i>Identifier</i>		<i>Issued by</i>		<i>Validity</i>		
29. Transshipment information concerning donor vessels						
<i>Name</i>	<i>Flag State</i>	<i>ID no.</i>	<i>Species</i>	<i>Product form</i>	<i>Catch area(s)</i>	<i>Quantity</i>
30. Evaluation of offloaded catch (quantity)						
<i>Species</i>	<i>Product form</i>	<i>Catch area(s)</i>	<i>Quantity declared</i>	<i>Quantity offloaded</i>	<i>Difference between quantity declared and quantity determined, if any</i>	
31. Catch retained onboard (quantity)						
<i>Species</i>	<i>Product form</i>	<i>Catch area(s)</i>	<i>Quantity declared</i>	<i>Quantity retained</i>	<i>Difference between quantity declared and quantity determined, if any</i>	
32. Examination of logbook(s) and other documentation				<i>Yes</i>	<i>No</i>	<i>Comments</i>
33. Compliance with applicable catch documentation scheme(s)				<i>Yes</i>	<i>No</i>	<i>Comments</i>
34. Compliance with applicable trade information scheme(s)				<i>Yes</i>	<i>No</i>	<i>Comments</i>
35. Type of gear used						
36. Gear examined in accordance with paragraph e) of Annex B			<i>Yes</i>	<i>No</i>	<i>Comments</i>	
37. Findings by inspector(s)						
38. Apparent infringement(s) noted including reference to relevant legal instrument(s)						
39. Comments by the master						
40. Action taken						
41. Master's signature						
42. Inspector's signature						

ANNEX D**Information systems on port State measures**

In implementing this Agreement, each Party shall:

- a) seek to establish computerized communication in accordance with Article 16;
- b) establish, to the extent possible, websites to publicize the list of ports designated in accordance with Article 7 and the actions taken in accordance with the relevant provisions of this Agreement;
- c) identify, to the greatest extent possible, each inspection report by a unique reference number starting with 3-alpha code of the port State and identification of the issuing agency;
- d) utilize, to the extent possible, the international coding system below in Annexes A and C and translate any other coding system into the international system.

countries/territories:	ISO-3166 3-alpha Country Code
species:	ASFIS 3-alpha code (known as FAO 3-alpha code)
vessel types:	ISSCFV code (known as FAO alpha code)
gear types:	ISSCFG code (known as FAO alpha code)

ANNEX E**Guidelines for the training of inspectors**

Elements of a training programme for port State inspectors should include at least the following areas:

1. Ethics;
2. Health, safety and security issues;
3. Applicable national laws and regulations, areas of competence and conservation and management measures of relevant RFMOs, and applicable international law;
4. Collection, evaluation and preservation of evidence;
5. General inspection procedures such as report writing and interview techniques;
6. Analysis of information, such as logbooks, electronic documentation and vessel history (name, ownership and flag State), required for the validation of information given by the master of the vessel;
7. Vessel boarding and inspection, including hold inspections and calculation of vessel hold volumes;
8. Verification and validation of information related to landings, transshipments, processing and fish remaining onboard, including utilizing conversion factors for the various species and products;
9. Identification of fish species, and the measurement of length and other biological parameters;
10. Identification of vessels and gear, and techniques for the inspection and measurement of gear;
11. Equipment and operation of VMS and other electronic tracking systems; and
12. Actions to be taken following an inspection.

APPENDIX VI

XX. The Council adopted the following Resolution:

Resolution X/XXX

Agreement on the Central Asian and Caucasus Fisheries and Aquaculture Commission

THE COUNCIL,

Recalling that at the Twenty-eighth session of the Committee on Fisheries from 5 - 9 March 2009 in Rome, Italy, Members were urged to encourage regional cooperation and cooperative efforts to combat illegal, unreported and unregulated fishing;

Aware that the FAO Members from Central Asia and the Caucasus and neighbouring States, while committed to the objectives of the Organization and duly acknowledging their obligations as Members, are convinced that the States of Central Asia and the Caucasus being States with economies in transition, require special cooperative efforts and assistance for better management of their inland fisheries and sustainable development of aquaculture in order to increase fish production and hence improve food security in their respective jurisdictions;

Acknowledging that a decision was taken, at an intergovernmental meeting convened by FAO in Dushanbe, Tajikistan from 10 - 12 November 2008 in collaboration with the Government of Republic of Tajikistan, to establish a regional cooperative mechanism for fisheries and aquaculture in the Central Asian and Caucasus States;

Recognising that pursuant to a decision taken at an intergovernmental technical Meeting, convened from 24 - 26 March 2009 in Ankara Turkey, an agreement for the establishment of a fisheries commission for the Central Asian and the Caucasus region was submitted to, discussed and further developed at a second intergovernmental meeting from 3 - 5 June 2009 in Trabzon, Turkey in accordance with Article XIV.3 (a) of the FAO Constitution;

Noting that the draft of the Agreement on the Central Asian and Caucasus Fisheries and Aquaculture Commission was further considered by the Committee on Constitutional and Legal Matters at its Eighty-eighth Session held in September 2009;

Having examined the text of the draft Agreement on the Central Asian and Caucasus Fisheries and Aquaculture Commission as submitted to the Council by the Committee on Constitutional and Legal Matters;

Approves, in accordance with Article XIV-2(a) of the Constitution of FAO, the text of the Agreement on the Central Asian and Caucasus Fisheries and Aquaculture Commission reproduced as Appendix X to this Report, for submission to Members concerned in order to receive their acceptance.

(Adopted on XX November 2009)

**AGREEMENT ON THE CENTRAL ASIAN AND CAUCASUS
REGIONAL FISHERIES AND AQUACULTURE COMMISSION**

PREAMBLE

The Parties to this Agreement:

Noting the objectives and purposes stated in Chapter 17 of Agenda 21 adopted by the United Nations Conference on Environment and Development in 1992 and the Code of Conduct for Responsible Fisheries adopted by the FAO Conference in 1995,

Conscious of the paramount importance of fisheries and aquaculture in national development and their contribution to improved food security, income and employment in Central-Asia and the Caucasus region,

Committed to ensuring the long-term conservation and sustainable use of living aquatic resources in inland waters through responsible fisheries and aquaculture and to safeguarding the environment and ecosystems in which the resources occur,

Considering that the close regional co-operation through a regional fisheries arrangement for inland fisheries and aquaculture can make a significant contribution to the development and effective management of inland fisheries and aquaculture,

Convinced that the aforementioned objectives could best be achieved through the establishment of a Commission set up under Article XIV of the Constitution of the Food and Agriculture Organization of the United Nations,

Agree as follows:

ARTICLE I

The Commission

1. The Parties hereby establish within the framework of the Food and Agriculture Organization of the United Nations (hereinafter referred to as "the Organization") a Commission to be known as "The Central Asian and the Caucasus Regional Fisheries and Aquaculture Commission" (hereinafter referred to as "the Commission").

2. Membership in the Commission shall be open to any Member of the Organization and such non-member State of the Organization that is a Member of the United Nations, any of its Specialized Agencies or the International Atomic Energy Agency provided that the territory of

such State is situated wholly or partly within the Area defined in Article IV and such State accepts this Agreement in accordance with the provisions of Article XIII.

3. Members of the Organization and such non-member State of the Organization that is a Member of the United Nations, any of its Specialized Agencies or the International Atomic Energy Agency may, upon its request made to and granted by the Commission, be represented as an observer at sessions of the Commission or meetings of the Technical Advisory Committee and other subsidiary bodies of the Commission provided for in Article VII of this Agreement, in accordance with the terms and conditions established by the Commission.

ARTICLE II

Organization

1. Each Party shall designate one representative and one alternate to represent that Party in the sessions of the Commission. They may be accompanied by experts and advisers. Participation in sessions of the Commission by alternates, experts, and advisers shall not entail the right to vote, except in the case of an alternate who is acting in the place of the representative during his absence.

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

3. The Commission shall elect a Chairperson and two Vice-Chairpersons.

4. The Chairperson of the Commission shall normally convene an annual session of the Commission unless otherwise directed by a majority of the Members. The site and date of all sessions shall be determined by the Commission in consultation with the Director-General of the Organization.

5. The seat of the Commission shall be at the seat of the FAO Sub-regional Office for Central Asia in Ankara, Turkey. However, the Commission, after consultation with the Director-General of the Organization, may decide to choose, at its own expense, another location within the Area defined in Article IV.

6. The Organization shall provide the Secretariat of the Commission and the Director-General shall appoint a Secretary (hereinafter referred to as "the Secretary of the Commission"), who shall be administratively responsible to him.

7. The Commission may, by a two-thirds majority of its membership, adopt and amend its own Rules of Procedure provided that such Rules of Procedure or the amendments thereto are not inconsistent with this Agreement or with the Constitution of the Organization.

8. The Commission may, by a two-thirds majority of its membership, adopt and amend its own Financial Regulations, provided that such Regulations shall be consistent with the principles embodied in the General Rules and Financial Regulations of the Organization. Such Regulations shall be reported to the Finance Committee of the Organization which shall have the power to disallow such Financial Regulations or amendment if it finds that they are inconsistent with the principles embodied in the General Rules and Financial Regulations of the Organization.

ARTICLE III

Objectives and Functions

1. The objectives of the Commission shall be to promote the development, conservation, rational management and best utilization of living aquatic resources, as well as the sustainable development of aquaculture in the Area defined in Article IV.

2. The Commission shall in pursuance of its objectives have the following functions and responsibilities:

(a) keep under review the state of these resources, including their abundance and the level of their exploitation, as well as the state of the fisheries and aquaculture;

(b) formulate and recommend, in accordance with the provisions of Article V, appropriate measures:

(i) for the conservation and rational management of living aquatic resources in the Area defined in Article IV; and,

(ii) for the implementation of these recommendations;

(c) keep under review the economic and social aspects of the fishing and aquaculture industry and recommend any measures aimed at its development;

(d) encourage, recommend, coordinate and, as appropriate, undertake activities relating to training and extension, research and development, including cooperative projects in the areas of fisheries and aquaculture;

(e) assemble, publish or disseminate information regarding exploitable living aquatic resources and fisheries and aquaculture based on these resources;

(f) promote programmes for aquaculture and fisheries enhancement;

(g) promote women's participation in aquaculture and capture fisheries development;

(h) transfer appropriate technologies and techniques for development of small-scale fisheries and aquaculture;

(i) contribute to knowledge generation and raising the awareness about fisheries and aquaculture in the Central Asian and Caucasus region;

(j) promote liaison and cooperation among and within governmental organizations and with non-governmental organizations as appropriate;

(k) carry out such other activities as may be necessary for the Commission to achieve its purpose as defined above.

3. In performing its functions and in particular when formulating and recommending measures under paragraph 2 (b) above, the Commission shall apply the precautionary approach and the ecosystems approach to conservation and management decisions and take into account the best scientific evidence available, the need to promote responsible fisheries and aquaculture development and the proper utilisation of living aquatic resources in the Area defined in Article IV.

ARTICLE IV

Area

The Commission shall carry out the functions and responsibilities set forth in Article III in the inland waters and areas within the territorial boundaries of the States of Central Asia namely Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan, and of the Caucasus namely Armenia, Azerbaijan, Georgia and Turkey and, with respect to inland fisheries, other waters within the trans-boundary water basins bordering the territories of the States of Central Asia and of the Caucasus.

ARTICLE V

Recommendations on development and management measures

1. The recommendations referred to in Article III, paragraph 2 (b), shall be adopted by a two-thirds majority of Parties present and voting. The text of such recommendations shall be communicated by the Chairperson of the Commission to each Party.

2. Subject to the provisions of this Article, the Parties to the Agreement shall implement any recommendations made by the Commission under Article III, paragraph 2 (b) relating to transboundary water bodies, from the date determined by the Commission, which shall not be before the period for objection provided for in this Article has elapsed.

3. Any Party may, within one hundred and twenty days from the date of notification of any recommendation made under this Agreement object to it and in that event shall not be under obligation to give effect to that recommendation. A Party may at any time withdraw its objection and give effect to a recommendation.

4. The Chairperson of the Commission shall notify each Party immediately upon receipt of each objection or withdrawal of objection.

ARTICLE VI

Reports

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

ARTICLE VII

Committees, Working Groups and Specialists

1. The Commission shall establish a Technical Advisory Committee to provide technical and scientific advice to the Commission and its work.

2. The Commission may establish, in addition to the Technical Advisory Committee, temporary, special or standing committees and working groups (hereinafter referred to as "subsidiary bodies") to study, report, advise and recommend on matters pertaining to the purposes of the Commission and on specific technical problems.

3. The subsidiary bodies referred to in paragraphs 1 and 2 above shall be convened by the Chairperson of the Commission at such times and places as are determined by the Chairperson in consultation with the Director-General of the Organization, as appropriate.

4. The establishment of subsidiary bodies referred to in paragraph 2 above and the recruitment or appointment of specialists shall be subject to the availability of the necessary funds in the relevant chapter of the approved budget of the Commission. Before taking any decision involving expenditures in connection with the establishment of subsidiary bodies and the recruitment or appointment of specialists, the Commission shall have before it a report from the Secretary of the Commission on the administrative and financial implications thereof.

ARTICLE VIII

Cooperation with International Organizations

The Commission shall cooperate closely with other international organizations in matters of mutual interest. On the proposal of the Secretary of the Commission, observers of these organizations may be invited by the Commission to attend sessions of the Commission or meetings of its subsidiary bodies.

ARTICLE IX

Finances

1. Each Party to the Agreement undertakes to pay annual contributions to the budget of the Commission

2. At each annual session, the Commission shall adopt its budget by consensus, provided however that if, after every effort has been made, a consensus cannot be reached in the course of that session, the matter will be put to a vote and the budget shall be adopted by a two-thirds majority of the Parties to this Agreement.

3. (a) The amount of the contribution of each Party shall be determined in accordance with a scheme which the Commission shall adopt and amend by consensus.

(b) The scheme adopted or amended by the Commission shall be set out in the Financial Regulations of the Commission.

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

5. The Commission may also accept donations and other forms of assistance from organizations, individuals and other sources for purposes connected with the fulfilment of any of its functions.

6. Contributions and donations and other forms of assistance received shall be placed in a Trust Fund administered by the Director-General of the Organization in conformity with the General Rules and Financial Regulations of the Organization.

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

ARTICLE X

Expenses

1. Expenses of one delegate of a Party or his alternate to attend the annual session of the Commission would be covered under the budget of the Commission. Expenses incurred by other delegates, their alternates, experts and advisers when attending, as government representatives, sessions of the Commission and meetings of its subsidiary bodies including the Technical Advisory Committee, as well as the expenses incurred by observers at such sessions and meetings, shall be borne by the respective governments or organizations. The expenses of experts invited by the Commission to attend, in their individual capacity, sessions of the Commission and meetings of its subsidiary bodies including the Technical Advisory Committee shall be borne by the budget of the Commission.
2. The expenses for publications and communications and the expenses incurred by the Chairperson and Vice-Chairpersons of the Commission, when performing duties on behalf of the Commission between Commission sessions, shall be determined and paid from the budget of the Commission.
3. The expenses of research and development projects undertaken by individual Parties within their territory, whether independently or upon recommendation of the Commission shall be determined and paid by the Parties concerned.
4. The expenses incurred in connection with cooperative research or development projects undertaken in accordance with the provisions of Article III, paragraph 2 (d), unless otherwise available shall be determined and paid by the Parties in the form and proportion to which they shall mutually agree. Contributions for cooperative projects shall be paid into a Trust Fund which shall be established by the Organization and shall be administered by the Organization in accordance with the General Rules and Financial Regulations of the Organization.
5. The Commission may accept voluntary contributions generally or in connection with specific projects or activities of the Commission. Such contributions shall be paid into a Trust Fund to be established by the Organization. The acceptance of such voluntary contributions and the administration of the Trust Fund shall be in accordance with the Financial Regulations of the Organization.

ARTICLE XI

Administration

1. The Secretary of the Commission shall be appointed by the Director-General of the Organization.
2. The Secretary of the Commission shall be responsible for implementing the decisions and recommendations of the Commission and shall report thereon to the Commission. The Secretary

of the Commission shall also act as secretary to other subsidiary bodies established under Article VII, as required.

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

ARTICLE XII

Amendments

This Agreement may be amended by a two-thirds majority of the Parties. Amendments to this Agreement shall be reported to the Council of the Organization, which shall have the power to disallow them if it finds that such amendments are inconsistent with the objectives and purposes of the Organization or the provisions of the Constitution of the Organization. If the Council considers it desirable, it may refer these amendments to the Conference of the Organization, which shall have the same power. However, any amendment involving new obligations for the Parties shall come into force with respect to each Party only on formal acceptance of it by that Party, through an instrument of acceptance deposited with the Director-General of the Organization, after two-thirds of the Parties have accepted the amendment concerned. The Director-General shall inform the Parties, all Members of the Organization, as well as the Secretary-General of the United Nations, of the receipt of instruments of acceptance and of the entry into force of such amendments. The rights and obligations of any Party that has not accepted an amendment involving additional obligations shall continue to be governed by the provisions of this Agreement as they stood prior to the amendment.

ARTICLE XIII

Acceptance

1. In accordance with Article I .2, this Agreement shall be open to acceptance by Members of the Organization as well as by such non-member State of the Organization that is a Member of the United Nations, any of its Specialized Agencies or the International Atomic Energy Agency provided that the territory of such State is situated wholly or partly within the Area defined in Article IV.

2. Acceptance of this Agreement by any Member of the Organization or State referred to in paragraph 1, shall be effected by the deposit of an instrument of acceptance with the Director-General of the Organization, the depositary of this Agreement, and shall take effect on receipt of such instrument by the Director-General.

3. The Director-General of the Organization shall immediately inform all Parties, all Members of the Organization and the Secretary-General of the United Nations of all acceptances that have become effective.

4. Acceptance of this Agreement may be made subject to reservations in accordance with the general rules of public international law as reflected in the provisions of Part II, Section 2 of the Vienna Convention on the Law of Treaties of 1969.

ARTICLE XIV

Entry into force

This Agreement shall enter into force as from the date of receipt by the Director-General of the third instrument of acceptance.

ARTICLE XV

Withdrawal

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

2. Any Party that gives notice of withdrawal from the Organization shall be deemed to have simultaneously withdrawn from this Agreement.

ARTICLE XVI

Interpretation and Settlement of Disputes

Any dispute regarding the interpretation or application of this Agreement, if 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 in addition an independent chairperson appointed by the members of the committee. The recommendations of such a committee, while not binding in character, shall become the basis for renewed consideration by the parties concerned of the matter out of which the disagreement arose. If, as the result of this procedure, the dispute is not settled, it 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 XVII**Termination**

This Agreement shall be automatically terminated if, as the result of withdrawals, the number of parties to the Agreement that are also States from Central Asia and the Caucasus drops below three.

ARTICLE XVIII**Certification and Registration**

1. This Agreement shall be in the English and Russian languages, both texts being authentic. This Agreement shall be certified by and deposited with the Director-General of the Organization. A certified copy will be transmitted to the Secretary-General of the United Nations for registration. Copies of the certified agreement in the English and Russian languages shall be transmitted to each Party.

2. Amendments to this Agreement in the English and Russian languages are certified by the chairperson of the Commission and the Director-General of the Organization and deposited in the archives of the Organization. A certified copy of the amendments will be transmitted to the Secretary-General of the United Nations for registration. Copies of the amendments in English and Russian languages as certified by the Chairperson of the Commission and the Director-General of the Organization shall be transmitted to each Party.