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para la  
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## COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

**Ninety-fourth Session**

**Rome, 19-21 March 2012**

**Review of statutory bodies with a view to allowing them to exercise greater financial and administrative authority while remaining within the framework of FAO (report on the status of on-going consultations)**

### BACKGROUND

1. The Immediate Plan of Action (IPA) for FAO Renewal (2009-11), approved by the Conference at its 35th (Special) Session in 2008, contains the following general statement under the section entitled “*Statutory Bodies, Conventions, etc.*”:

*“28. The statutory bodies and conventions will be strengthened, enjoying more financial and administrative authority within the framework of FAO and a greater degree of self-funding by their Members. They will have a direct line of access to the appropriate FAO Technical Committees. They will be accountable to the FAO Council and Conference for the use of that proportion of their funding which is provided from FAO assessed contributions.”*

2. In that connection, the IPA calls for the implementation of the following actions:

*“Conferences of parties to treaties, conventions and agreements such as Codex and the IPPC (incorporated under FAO statutes) may bring issues to the attention of the Council and Conference through the relevant Technical Committee (Basic Texts change) (IPA action 2.68)*

*Undertake a review with a view to making any necessary changes to enable those statutory bodies which wish to do so to exercise financial and administrative*

*authority and mobilize additional funding from their members, while remaining within the framework of FAO and maintaining a reporting relationship with it (IPA action 2.69)."*

3. The Programme Committee and the Committee on Constitutional and Legal Matters (CCLM) have followed the implementation of these actions.

4. The Programme Committee, at its 101st Session in May 2009, "*underlined the importance of the review being undertaken as foreseen in the IPA (action 2.69) aimed at addressing issues regarding autonomy of statutory bodies, with particular reference to Article XIV bodies, placed under the framework of FAO and their relationship with FAO. The Committee noted that a paper would be submitted later in 2009*".<sup>1</sup>

5. At its 88th Session (September 2009), the CCLM undertook a "*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*"<sup>2</sup> which concerned primarily bodies created by convention or agreement under Article XIV of the Constitution (referred to in this document as Article XIV bodies). The review identified a range of issues raised over the years either by Members, secretaries of statutory bodies or units of the Organization. It also provided for possible areas of "*increased autonomy*" in various forms.

6. At its 137<sup>th</sup> Session (28 September-2 October 2009), when considering the report of the CCLM<sup>3</sup>, the Council stressed that the implementation of the preliminary review "*should be seen as an ongoing process to be carried out in the course of the next few years*". The Council "*invited the Secretariat to take action in respect of matters within its authority and consult the relevant Governing Bodies with regard to matters which would need to be considered by the membership. The Council endorsed the recommendation of the CCLM that, in the context on 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 therein.*"<sup>4</sup>

7. At its 140th Session (29 November-3 December 2010)<sup>5</sup>, the Programme Committee noted that, as a result of the review of the matter by the CCLM and the Council, the Secretariat would initiate a process of consultation with the membership of Article XIV bodies on issues regarding their relationship to the organization, including possible adjustments to existing procedures. The Committee noted further that this process, which had already been launched within some Article XIV bodies, would be carried out on the basis of

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<sup>1</sup> Paragraph 35 of the Programme Committee Report - CL 136/9.

<sup>2</sup> CCLM 88/3

<sup>3</sup> CL 137/5, paras 7-22.

<sup>4</sup> CL 137/REP, para.53.

<sup>5</sup> CL 140/8, para. 27.

the review of the CCLM, supplemented, as appropriate, by a questionnaire highlighting issues referred to in document PC 104/9.<sup>6</sup>

8. The outcome of the above limited consultations, together with a preliminary identification of issues to be addressed, were reported to the Programme Committee at its 108<sup>th</sup> Session (10-14 October 2011). The Programme Committee observed that the issues were either of an administrative or financial nature, or of a substantive character. Taking into account the differentiated situation of Article XIV bodies, it invited the Secretariat to speed up the process of consultation on both administrative and substantive issues in a pragmatic manner.<sup>7</sup> The Committee expects to receive a report on the outcome of these consultations on administrative matters at its October 2012 session, including information on the consultation process and progress with membership of Article XIV bodies and other stakeholders, consistent with paragraph 44 b) of document PC 108/10.<sup>8</sup>

9. At its Hundred and Forty-third Session (28 November-2 December 2011)<sup>9</sup>, the Council underlined the desirability for maintaining coherence between the activities of statutory bodies, with particular reference to Article XIV bodies. The Council looked forward to the outcome of the process.<sup>10</sup>

### **Recent developments**

10. A consultation workshop on statutory bodies under Article XIV of the FAO Constitution was organized on 30 January 2012. It was attended by secretaries of Article XIV statutory bodies and senior representatives of relevant units of FAO. The objectives of the consultation were to further review and analyze (i) administrative and financial issues pertaining to the effective and efficient functioning of these statutory bodies, while preserving overall FAO's integrity and interests; (ii) visibility and identity issues pertaining taking into account the overall outreach strategy of the Organization, (iii) the rules and procedures applicable to observers in respect of Article XIV bodies, to bring them in line with those in

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<sup>6</sup> Issues referred to in Paragraph 10 of document PC 104/9 highlight the following elements :

- a) general nature of relationship with FAO (funding mechanisms, appointment of secretariats, instruments);
- b) recommendations stemming from recent evaluations (e.g. Evaluation of FAO's Work on International Instruments), as well as from reports of technical meetings and Regional Conferences;
- c) current reporting lines and suggestions for reporting to FAO governing bodies through the Technical Committees of the Council and/or Regional Conferences; and
- d) relevant administrative and financial matters.

<sup>7</sup> Paragraphs 19 to 24 of the Programme Committee Report – CL 143/7.

<sup>8</sup> Paragraph 44 b) of document PC 108/10 states : “The Committee may wish to : ...invite the Secretariat to continue the process of consultation with the membership of statutory bodies established under Article XIV on areas where they could exercise greater administrative and financial authority and, as appropriate, take action on matters within the Secretariat' authority pertaining to the relationship between the Organization and these bodies.”

<sup>9</sup> CL 143/REP, para.22.

<sup>10</sup> Paragraph 16 of Document PC 108/10 states : “The Secretariat is considering initiating a review of the Organization's rules and procedures applicable to observers of NGOs, possibly along the lines of procedures in force at the United Nations.”

force in the United Nations and (iv) the reporting relationship between these statutory bodies and the governing bodies of FAO, with a view to maintaining coherence between the activities of Article XIV bodies and those of the Organization.

11. The consultation showed that both the Organization and the secretariats of some Article XIV bodies have developed administrative procedures and practical arrangements to accommodate functional requirements expressed by some secretaries and members of statutory bodies. As part of the consultation the Organization will be seeking the views of the membership of Article XIV bodies through a questionnaire that was considered at the meeting. A report on the consultation is made available to the CCLM members.

12. Preliminary conclusions from, and reactions to the consultation, show that the situation of Article XIV bodies is highly differentiated, which would seem to call for the implementation of solutions tailored to each specific body. While one of the Article XIV bodies is entirely financed by assessed contributions by members (The Indian Ocean Tuna Commission – IOTC-) and one is only marginally financed by FAO (The General Fisheries Council for the Mediterranean – GFCM-), all Article XIV bodies are either entirely financed by the Organization or benefit from significant financial support from the Organization. Relaxation of administrative and financial procedures would have to take into account this situation in an appropriate manner, and the oversight mechanisms available at the disposal of the governing bodies of the Article XIV bodies. Furthermore, concerns have been expressed within the Organization as to possible risks that increased operational autonomy of Article XIV bodies, through adjustments to administrative and financial procedures, could result in a lack of coherence between the technical activities of the Organization and those of the statutory bodies.

13. The CCLM will receive another progress report on this matter at its session of Autumn 2012.

#### **Suggested action by the Committee**

14. The CCLM is invited to take note of, and review this document and make such observations thereon as appropriate.

15. The CCLM is, in particular, invited to provide guidance in light of the concerns that, while it is recognized that a call for greater administrative and financial authority was made in the IPA, some concerns have been expressed at possible risks of a lack of coherence between the technical activities of the Organization and those of the statutory bodies.