


October 2012

	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		Organización de las Naciones Unidas para la Alimentación y la Agricultura
---	--	--------------------	---	---	--	--

## COUNCIL

### Hundred Forty-fifth Session

Rome, 3-7 December 2012

### Report of the 95<sup>th</sup> Session of the Committee on Constitutional and Legal Matters (Rome, 8-11 October 2012)

#### Executive Summary

The 95<sup>th</sup> Session of the Committee on Constitutional and Legal Matters (CCLM) :

- Examined a review of the implementation of the Organization's Whistleblower Protection Policy and concurred that no change to the policy was warranted;
- Examined a document entitled "Disclosure of Internal Audit Reports" and welcomed Management's proposal to periodically update during the year, through the Permanent Representatives' website, a list of reports available for viewing under the current disclosure policy, and encouraged the Office of the Inspector General (OIG) to work with Management to identify options under the current policy to allow for viewing of the reports other than through physical visits to OIG's offices;
- Endorsed a proposal to modify the standard arbitration clause used in commercial contracts of the Organization to include a provision for the administration of arbitration proceedings by the Permanent Court of Arbitration (PCA);
- Noting that the Council, at its 144<sup>th</sup> Session in June 2012, had expressed general agreement to the proposal and that the Finance Committee would review financial costs related to the implementation of the proposed amendments to Rules XXXVII and XL of the General Rules of the Organization (GRO), reiterated the recommendation that the draft Conference Resolution set out in Appendix I to its report be endorsed by the Council for on-forwarding to the Conference;
- Reviewed and advised on a detailed list of outstanding issues concerning statutory bodies established under Article XIV of the Constitution, with a view to allowing them to exercise greater financial and administrative authority while remaining within the framework of FAO. The list was prepared drawing on the results of a consultation process with membership and secretaries of these bodies, undertaken in response to IPA action 2.69, as well as the documentation already examined in 2009 by the CCLM. Acknowledging the complexity of the matter, the CCLM agreed that it was essential to identify bodies established under Article XIV of the Constitution which would benefit from the facilities identified in the report based on a number of criteria. As a general guiding principle, the CCLM held the view that increased delegation of authority to bodies established under Article XIV of the Constitution

*This document is printed in limited numbers to minimize the environmental impact of FAO's processes and contribute to climate neutrality. Delegates and observers are kindly requested to bring their copies to meetings and to avoid asking for additional copies. Most FAO meeting documents are available on the Internet at [www.fao.org](http://www.fao.org)*

- could be considered provided that the secretariats of those bodies be adequately staffed and appropriate oversight mechanisms by the Organization were in place;
- f) Reviewed the practice of the General Committee in recommending to the Conference restoration of voting rights, as well as the practice of approval of Instalment Plans for the settlement of arrears. Noting the guidance offered by the Conference, at its 33<sup>rd</sup> Session in November 2005, when considering the issue of restoration of voting rights, the CCLM expressed readiness to examine the legal aspects of the matter;
  - g) Endorsed the draft Council Resolution containing the revised Statutes of the Agriculture, Land and Water Use Commission for the Near East (ALAWUC) and decided to forward it to the Council for approval;
  - h) Reviewed proposed amendments to Rule XXXIII of the GRO concerning the Committee on World Food Security (CFS) and considered that it should examine the proposed amendments only at its next session in February 2013, following review and endorsement of the proposed amendments by the CFS at its 39<sup>th</sup> Session;
  - i) Reviewed draft Conference Resolution entitled “Amendments to Rules XXIX.2, XXX.2, XXXI.2 and XXXII.2 of the General Rules of the Organization” to the effect that notifications of membership should be made not later than ten days before the opening date of a session and agreed to forward it to the Council for subsequent transmission to the Conference for approval;
  - j) Endorsed the draft Council Resolution containing the revised Statutes of the Advisory Committee on Paper and Wood Products (ACPWP), a body of experts established under Article VI, paragraph 2 of the Constitution, and agreed to forward it to the Council for approval; and
  - k) Reviewed and endorsed the progress report prepared in the context of the Multi-year programme of work for the Committee on Constitutional and Legal Matters and underlined the distinctive features of the CCLM.

### **Suggested action by the Council**

The Council is invited to :

- a) Endorse the proposed amendment to the standard arbitration clause set out in paragraph 10 of this report;
- b) Take note of the review of the implementation of the Whistleblower Protection Policy;
- c) Concur with Management’s proposals with respect to the implementation of the Organization’s Policy on Disclosure of Internal Audit Reports with a view to facilitating its access by Permanent Representatives;
- d) Endorse the draft Conference Resolution set out in Appendix I to this report on amendments to Rules XXXVII and XL of the General Rules of the Organization and forward it to the Conference for approval;
- e) Re-affirm the differentiated nature of statutory bodies established under Article XIV of the Constitution, and concur with the overall conclusions of the CCLM on outstanding issues concerning statutory bodies established under Article XIV of the Constitution, with a view to allowing them to exercise greater financial and administrative authority while remaining within the framework of FAO;
- f) Note the deliberations of the CCLM on restoration of voting rights of Member Nations in arrears and the recommendation that the Finance Committee should examine the matter in light of the guidance provided by the Conference at its 33<sup>rd</sup> Session in November 2005 with respect to the restoration of voting rights of Member Nations in arrears;
- g) Adopt the draft Council Resolution containing the Statutes for the Agriculture, Land and Water Use Commission for the Near East (ALAWUC) set out in Appendix II to this report;
- h) Note that the proposed amendments to Rule XXXIII of the GRO concerning the Committee on World Food Security (CFS) will be re-examined by the CCLM, after endorsement by the CFS;

- i) Endorse the draft Conference Resolution set out in Appendix III to the report containing amendments to Rule XXIX.2, Rule XXX.2, Rule XXXI.2 and Rule XXXII.2 of the General Rules of the Organization and forward it to the Conference for approval;
- j) Adopt the draft Council Resolution containing the Revised Statutes of the Advisory Committee on Paper and Wood Products (ACPWP) set out in Appendix IV to this report;
- k) Take note that the CCLM endorsed the progress report on the Multi-year Programme of Work 2012-15 underlining specific features regarding the work of the CCLM and observing that there were no standing or recurrent items in the CCLM mandate which it could examine at pre-established dates.

*Queries on the substantive content of this document may be addressed to:*

Mr Antonio Tavares  
Legal Counsel, Legal Office  
Tel: +39 06570 55132

## I. Introduction

1. The Ninety-fifth Session of the Committee on Constitutional and Legal Matters (CCLM) was held from 8 to 11 October 2012.

2. The Session, open to silent observers, was chaired by His Excellency Hassan Janabi (Iraq). The following members were present:

Ms. Mónica Martínez Menduño (Ecuador)

Mr. Jarlath O'Connor (Ireland)

Mr. Khalid Mehboob (Pakistan)

Ambassador Hasan Khaddour (Syrian Arab Republic)

Mr. Gregory Groth (United States of America)

Ms. Kampamba Pam Mwananshiku (Zambia)

3. The Committee was informed of a notification that Mr. Ammar Awad (Syrian Arab Republic) had been replaced by Mr. Essam Al Shahin. The Committee noted that Mr. Lawrence Kuna Kalinoe (Papua New Guinea) could not participate in the session.

4. The CCLM approved its Provisional Agenda. When approving the agenda, the CCLM noted that the Independent Chairperson of the Council had informed that he was no longer pursuing the issue of the role and conditions of service of the Independent Chairperson of the Council and decided to remove it from the agenda.

## II. Review of the implementation of the Whistleblower Protection Policy

5. The CCLM examined document CCLM95/2 entitled "*Review of Implementation of the Whistleblower Protection Policy*"; received supplemental information including on the process of receiving complaints of retaliation, and the possible reasons for complaints coming exclusively to date from field locations; and was advised of plans by the Office of the Inspector General to further publicize the policy to ensure continuing awareness by staff.

6. The CCLM concurred that no change in the policy, including the receipt and screening of complaints of retaliation by OIG, was warranted at this stage.

## III. Disclosure of Internal Audit Reports

7. The CCLM examined document CCLM95/3 entitled "*Disclosure of Internal Audit Reports*" and received further explanations of management's concerns related to the potential blurring of the distinctions between the external and internal audit functions.

8. The CCLM welcomed Management's proposal to periodically update during the year, through the Permanent Representatives' website, a list of reports available for viewing under the current disclosure policy, and encouraged the Office of the Inspector General (OIG) to work with Management to identify options under the current policy to allow for viewing of the reports other than through physical visits to OIG's offices. In this regard, the CCLM suggested that the experience with secure online methods that have been piloted by some other organizations of the United Nations System to facilitate remote viewing be considered.

## IV. Review of standard arbitration clauses in FAO commercial contracts

9. The CCLM examined document CCLM 95/4 "*Review of standard arbitration clauses in FAO commercial contracts*".

10. While noting that there had been only three instances of recourse to arbitration proceedings since 2000, the Committee considered and endorsed a proposal to modify the standard arbitration clause used in contracts of the Organization with commercial suppliers to include a provision for the administration of arbitration proceedings by the Permanent Court of Arbitration (PCA) at The Hague, The Netherlands, as follows:

*“Arbitrations under this provision shall be administered by the International Bureau of the Permanent Court of Arbitration.”*

## **V. Proposed amendments to Rules XXXVII and XL of the General Rules of the Organization**

11. The CCLM examined document CCLM 95/8 *“Proposed amendments to Rules XXXVII and XL of the General Rules of the Organization”*. The CCLM noted that it had already reviewed and endorsed the proposed amendments which, in addition to reducing the duration of the nominations period to the office of Director-General, restricted the authority of the Director-General to make appointments to senior positions during the last six months of a term of office and provided for a number of facilities for a Director-General Elect until the assumption of office.

12. The CCLM noted that the Council, at its 144<sup>th</sup> Session in June 2012, had expressed general agreement to the proposed amendments but, on the recommendation of the Finance Committee, a proposal had been made to examine the financial implications of the arrangements for the transition period.

13. The CCLM noted that document CCLM 95/8 included a detailed allocation covering the costs involved in the implementation of new Rule XXXVII, paragraph 6 of the General Rules of the Organization (GRO) on facilities to be given to a Director-General Elect until the assumption of duties, to be incorporated within the net appropriation in the Programme of Work and Budget for a biennium where there would be an election of a Director-General.

14. The CCLM reiterated the recommendation that the draft Conference Resolution set out in Appendix I be endorsed by the Council for on-forwarding to the Conference. The CCLM noted that the financial implications of the proposed restrictions to the appointment authority of the Director-General should still be examined by the Finance Committee.

## **VI. Review of Article XIV Statutory Bodies with a view to allowing them to exercise greater financial and administrative authority while remaining within the framework of FAO**

15. The CCLM examined document CCLM 95/12 *“Review of Article XIV statutory bodies with a view to allowing them to exercise greater financial and administrative authority while remaining within the framework of FAO”*. The CCLM acknowledged that the matter was complex, insofar as bodies established by treaty under Article XIV of the Constitution were different depending on their constituent instruments. The CCLM noted that document CCLM 95/12 had been prepared in response to IPA Action 2.69 and was based on an earlier document reviewed by the CCLM in 2009 and by the Council in October 2009. The CCLM regretted that proposals made at the time were not implemented.

16. The CCLM agreed that it was essential to identify bodies established under Article XIV of the Constitution which would benefit from the facilities foreseen in the document. Eventually, the CCLM noted the views of the secretariat that it could be counterproductive to establish an exhaustive list of these bodies and that these should be identified on the basis of criteria such as their funding mechanisms, their functional needs and legal authority as defined in the constituent instruments, the conditions of appointment of their secretaries and their accountability to the bodies in question. Examples of these bodies are the Indian Ocean Tuna Commission, the General Fisheries Commission for the Mediterranean and the International Treaty on Plant Genetic Resources for Food and Agriculture.

17. As a general guiding principle, the CCLM held the view that increased delegation of authority to bodies under Article XIV of the Constitution could be considered provided that the secretariats of those bodies be adequately staffed and appropriate oversight mechanisms by the Organization be in place. The CCLM recommended that a review be undertaken by the secretariat to examine and determine, in consultation with the secretariat of bodies, whether the above conditions (adequacy of staffing and appropriate oversight mechanisms) are in place.

18. As regards external relations of bodies under Article XIV of the Constitution, the CCLM was of the view that secretaries of bodies referred to in paragraph 16 should travel on business in accordance with the statutory body work programme and allocated budget.

19. As regards conclusion of arrangements with other organizations, the CCLM noted that a procedure approved by the FAO Council in 2004 had been operating satisfactorily and seemed to respond to the needs of bodies under Article XIV of the Constitution, while allowing for coherence between the activities of those bodies and those of FAO.

20. On budgetary, financial and audit issues, the CCLM considered that these matters should be examined by the Finance Committee. The CCLM noted that the Finance Committee should comment on the issue of project servicing costs. As regards requests for "third party audits", the CCLM noted that these were not possible under the Basic Texts of the Organization. However, it was possible for the Finance Committee to request the External Auditor of FAO to perform certain specific examinations under Financial Regulation 12.6, provided that costs be covered by the body in question.

21. As regards human resources matters, the CCLM noted that these were mainly within the purview of the Finance Committee and could be addressed through Management action. The CCLM underlined that it was essential to make adjustments to Performance Evaluation Management System (PEMS), insofar as some secretaries were directly under the operational authority of Article XIV bodies and not of FAO. Hence, performance assessments of secretaries of such bodies should on technical and operational matters be done by the membership of their governing bodies.

22. As regards channels of communication with Governments and official correspondence, the CCLM noted an earlier proposal that the Correspondence Manual be adjusted to reflect the particular situation of bodies under Article XIV of the Constitution, but this had not been done. The CCLM requested that this proposal be implemented.

23. As regards relations with donors, the CCLM noted the proposal that facilities regarding resource mobilization be given to secretaries of bodies under Article XIV of the Constitution, subject to a need for overall coherence in resource mobilization activities of FAO. The CCLM also stressed that in some cases the secretariats were under a legal obligation to implement funding strategies flowing directly from the constituent instruments or from decisions of the bodies and, therefore, had to maintain direct relations with donors.

24. As regards the organization of meetings, including the conclusion of Memoranda of Responsibilities regarding such meetings, insofar as these involved issues related to the universal status of FAO and privileges and immunities they should continue to be concluded by or on behalf the Director-General.

25. As regards the servicing of meetings, including possible outsourcing of some activities such as translation, the CCLM noted that the matter was mainly within the purview of the Finance or Programme Committee and that there was, in any case, a need for quality control by FAO. The CCLM did not agree with the recommendation that, in order to reduce costs, some meetings be held in a limited number of languages.

26. As regards the issue of participation by non-governmental organizations (NGOs) and other stakeholders in meetings of FAO, including meetings of statutory bodies, the CCLM recommended that the current flexible, pragmatic practice continue. The CCLM agreed that, for the time being, no general rules on NGO participation applicable to all meetings of the Organization should be established in view of the differentiated nature of NGOs and stakeholders, the currently evolving situation, the different needs and status of the meetings of the Organization, as well as potential lack of

consensus on the matter among the membership. In this particular regard, the CCLM observed that it would be difficult to extend to other bodies of the Organization the regime currently applied to the Committee on World Food Security.

27. As regards the issue of the reporting relationship with the main bodies of FAO, the CCLM considered that in view of the specific legal status of each body under Article XIV of the Constitution, the scope and purpose of reporting should be primarily defined by each body taking into account as appropriate the views of the Organization. The CCLM considered that in some cases, reporting to the Conference is justified.

28. The CCLM noted that the review set out in document CCLM 95/12 would be referred to the forthcoming sessions of the Programme and Finance Committee and requested that its deliberations be made available to these Committees.

## **VII. Membership of the General Committee of the Conference in a year of election of the Director-General**

29. The CCLM examined document CCLM 95/10 entitled "Membership of the General Committee in a year of election of the Director-General". The Committee had an extensive debate on the composition and functions of the General Committee of the Conference and on the practice followed for many years regarding its recommendation to the Conference on the restoration of voting rights of Member Nations in arrears, under Article III, paragraph 4 of the Constitution.

30. The CCLM was of the view that the concerns underlying the insertion of the item in the agenda should be addressed by the CCLM and the Finance Committee, within their respective mandates, when considering the broader issue of the treatment of arrears.

## **VIII. Legal aspects of the treatment of arrears (restoration by the Conference of the voting rights of Member Nations in arrears)**

31. The CCLM examined document CCLM 95/14 "Legal aspects of the treatment of arrears (restoration by the Conference of the voting rights of Member Nations in arrears)". The document described the main provisions of the Basic Texts on sanctions applicable to Member Nations in arrears, including loss of voting rights at the Conference, ineligibility for elections to the Council and loss of seats at the Council. The document also reviewed the practice of the General Committee in recommending to the Conference restoration of voting rights, as well as the practice of approval of Installment Plans for the settlement of arrears.

32. The CCLM noted that the Conference, at its 33rd Session in November 2005, when considering the issue of restoration of voting rights recommended that the normal course of action in respect of Member Nations in arrears, in addition to the provisions of Article III paragraph 4 of the Constitution, should consist in actively encouraging them to submit an Installment Plan for the settlement of such arrears as a condition for the restoration of their voting rights. The Conference also recommended that in future requests for restoration of voting rights be referred to the Director-General for submission to the Autumn Session of the Finance Committee in Conference years, which would submit its views to the Conference, through the Council for consideration by the General Committee. The CCLM recommended that the Finance Committee should examine again this recommendation, which would need to be adjusted to take into account the new calendar of sessions of the Conference and other Governing Bodies.

33. The CCLM expressed its readiness to examine the legal aspects of the matter, including whether it would be appropriate to reflect in the Basic Texts of the Organization the requirement that requests for restoration of voting rights or approval of Installment Plans be submitted to the Organization in a timely manner, in accordance with the guidance of the Conference.

## **IX. Revised Statutes of the Agriculture, Land and Water Use Commission for the Near East (ALAWUC)**

34. The Committee reviewed document CCLM 95/5 containing the “Revised Statutes of the Agriculture, Land and Water Use Commission for the Near East (ALAWUC)”. The Committee noted that the draft Statutes had been endorsed by the Commission during its Seventh Session (Special) held in Cairo, Egypt, 8-9 May 2012.

35. The CCLM endorsed the draft Council Resolution set out in Appendix II of this Report containing the revised Statutes, and decided to forward it to the Council for approval.

## **X. Committee on World Food Security (CFS): proposed amendments to Rule XXXIII of the GRO**

36. The Committee reviewed document CCLM 95/7 entitled “Committee on World Food Security (CFS): Proposed Amendments to Rule XXXIII of the General Rules of the Organization”.

37. The CCLM noted that the proposed amendments to Rule XXXIII of the GRO had been examined by the CFS Open-ended Working Group on the CFS Rules of Procedure, had been reviewed by the CFS Bureau and that the proposed amendments to Rule XXXIII of the GRO would still be submitted to the CFS at its 39th Session for review.

38. In view of the above on-going process, the CCLM considered that it should examine the proposed amendments only at its next session in February 2013, following review and endorsement of the proposed amendments by the CFS at its forthcoming 39th Session.

## **XI. Membership of Technical Committees: Review of Rules XXIX, XXX, XXXI and XXXII of the General Rules of the Organization**

39. The CCLM examined document CCLM 95/9 “Membership of Technical Committees: Review of Rules XXIX, XXX, XXXI and XXXII of the General Rules of the Organization”. The CCLM noted that, under the current rules, Members were required to notify the secretariat of their desire to be considered as Members of the Technical Committees. Such notification could be made at any time and remained valid unless the Member country had not been represented at two consecutive sessions or had notified its withdrawal from it. Under this system membership could be acquired at any time, even while the Committees were in session resulting in uncertainty regarding both the actual membership of the Committees and quorum for decision making.

40. The CCLM considered that this situation was undesirable and, following a discussion on the most suitable timeframe, endorsed proposed amendments to Rules XXIX, paragraph 2, XXX, paragraph 2, XXXI, paragraph 2 and XXXII, paragraph 2 of the GRO to the effect that notifications of membership should be made not later than ten days before the opening date of a session.

41. The CCLM endorsed the draft Conference Resolution set out in Appendix III of this report and decided to transmit it to the Council for forwarding to the Conference.

## **XII. Revised Statutes of the Advisory Committee on Paper and Wood Products (ACPWP)**

42. The CCLM examined document CCLM 95/6 “Revised Statutes of the Advisory Committee on Paper and Wood Products (ACPWP)” on the basis of a detailed presentation by the Assistant Director-General, Forestry and the Secretary of the ACPWP. The Committee observed that the Advisory Committee was a body established under Article VI, paragraph 2, composed of experts selected on the basis of their qualifications and experience, and designated by the Director-General after consultation with the country of nationality of the expert.

43. The CCLM noted that the proposed revised Statutes for the Advisory Committee incorporated procedural elements applicable to committees of experts designated by the Director-General on the



basis of individual qualifications and reporting to him, as well as procedures and working mechanisms applicable to inter-governmental bodies. The CCLM considered that there was a need for more clarity on this matter and proposed a few amendments to the Statutes.

44. The CCLM endorsed the revised Statutes contained in the draft Council Resolution set out in Appendix IV to this Report and recommended its adoption by the Council.

### **XIII. Multi-year programme of work for the Committee on Constitutional and Legal Matters – Annual report**

45. The CCLM considered document CCLM 95/13 “Multi-year programme of work for the Committee on Constitutional and Legal Matters – Annual report”.

46. The CCLM endorsed the progress report and, in this connection, underlined that there were no standing or recurrent items in the CCLM mandate which it could examine at pre-established dates. The CCLM expressed appreciation for the manner in which the distinctive features of the Committee and its mandate were described in the progress report.

## Appendix I

### Resolution \_\_\_/2013

#### Amendments to Rules XXXVII and XL of the General Rules of the Organization

#### THE CONFERENCE:

**Recalling that** the Conference at its Thirty-sixth Session, 18-23 November 2009, approved amendments to Rule XXXVII of the General Rules of the Organization and that the implementation of this Rule in 2011 underlined the desirability of further amendments thereto in order better to reflect the spirit of the Immediate Plan of Action for FAO Renewal (2009-11);

**Recalling that** the Committee on Constitutional and Legal Matters (CCLM) at its Ninety-fourth Session, from 19 to 21 March 2012, and at its Ninety-fifth Session, from 8 to 11 October 2012, proposed amendments to Rules XXXVII and XL of the General Rules of the Organization;

**Noting that** the Finance Committee at its Hundred and Forty-third Session, from 7 to 11 May 2012, and at its Hundred and Forty-sixth Session, from 5 to 9 November 2012, reviewed the financial implications of proposed new paragraph 6 of Rule XXXVII of the General Rules of the Organization;

**Noting that** the Council, at its Hundred and Forty-fourth Session, from 11 to 15 June 2012, and at its Hundred and Forty-fifth Session, from 3 to 7 December 2012, endorsed the Conference Resolution containing amendments to Rules XXXVII and XL of the General Rules of the Organization;

**Decides** to adopt the following amendments to Rule XXXVII (Appointment of the Director-General) of the General Rules of the Organization:<sup>1</sup>

#### Rule XXXVII - 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:

(...)

(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 12~~ 3 months and end at least ~~60~~ 30 days prior to the beginning of the session of the Council referred to in subparagraph (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, paragraph 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.

(...)

---

<sup>1</sup> Deletions are indicated using ~~strike out text~~ and insertions are indicated using *underlined italics*

6. The Director-General shall take such measures as required to ensure that, as far as possible prior to taking office, a Director-General Elect is duly informed of the policies, programmes, staffing and activities of the Organization. The Director-General shall make arrangements to ensure that the Director-General Elect shall have the benefit of technical and administrative support during that period".

**Decides** to adopt the following amendments to Rule XL (Provisions Relating to Staff) of the General Rules of the Organization:

Rule XL – 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. Appointments made by the Director-General during the last six months of his or her term of office to positions at grade D-2 and above shall expire not later than five months after the end of that term of office. The new Director-General may extend any such appointments.

~~2.3.~~ The Director-General shall submit proposals to the Finance Committee on the scale of salaries and conditions of recruitment and service of the staff and shall report to the Finance Committee and the Council any decisions or recommendations of the International Civil Service Commission relating to such matters. He shall submit proposals to the Finance Committee on the general structure of the administrative and technical services of the Organization. He shall, insofar as may be feasible, arrange for public announcements of staff vacancies and shall fill vacancies in accordance with such competitive methods of selection as he may consider most suitable for various types of appointment.

(other sub-paragraphs renumbered)

(Adopted on June 2013)

## Appendix II

### Resolution \_\_\_/2012

#### Adoption of Statutes for the Agriculture, Land and Water Use Commission for the Near East (ALAWUC)

#### THE COUNCIL,

**Recalling** that the Agriculture and Land and Water Use Commission for the Near East was established pursuant to a recommendation made by the Joint Meeting of the Seventy-Eight Session of the Programme Committee and the Eighty-Eight Session of the Finance Committee (24-26 September 1997) within a process of review of FAO statutory bodies;

**Recalling** further that the Commission was established as a merger of the Regional Commission on Land and Water Use in the Near East (established under Article VI of the Constitution by the Forty-Eight Session of the Council by Resolution No. 9/48 of 23 June 1967) and the Near East Regional Commission on Agriculture (established also under Article VI of the Constitution by the Eighty-Third Session of the Council by Resolution No. 4/83 of 24 June 1983);

**Taking note** of the recommendation made by the Sixth Session of the Agriculture and Land and Water Use Commission for the Near East (Khartoum, Sudan, 30 November – 2 December 2010) for the preparation of internal statutes, which was endorsed by the Thirtieth Session of the Regional Conference for the Near East (Khartoum, Sudan, 4-8 December 2010);

**Considering** the observations made by the Seventh Session (Special) of the Agriculture and Land and Water Use Commission for the Near East (Cairo, Egypt, 8-9 May 2012) on its proposed Statutes;

**Decides**, under Article VI paragraph 1 of the Constitution, to promulgate the Statutes of the Agriculture, Land and Water Use Commission for the Near East as follows:

#### Article I. Membership

1. The Agriculture, Land and Water Use Commission for the Near East (hereinafter “the Commission”) is open to all Member Nations of the Food and Agriculture Organization of the United Nations (hereinafter “the Organization”) whose territories are situated wholly or partly in the Near East Region as defined by the Organization (hereinafter “the Region”) or which are serviced by the Organization’s Regional Office for the Near East. Eligible Member Nations shall notify the Director-General of their desire to be considered as members.

2. Each Member of the Commission shall communicate to the Director-General the name of its representative who should, as far as possible, participate in the sessions of the Commission in a continuing capacity and have responsibilities related to the coordination between the Commission and his country in agriculture, land and water use issues.

#### Article II. Objectives

The objectives of the Commission shall be:

- a) to provide a forum for Members to share information and experiences in the fields of agriculture, land and water use in the Region;

- b) to promote joint programmes at regional and sub-regional levels for the complementarity of resources; and
- c) to assist the Organization and potential donors in identifying outstanding issues, problems and future work programmes in the Region.

### **Article III. Terms of Reference**

The terms of reference of the Commission shall be:

- a) to conduct periodic reviews and appraisals of important issues and concerns in the Region relating to agriculture, land and water use;
- b) to strengthen the multidisciplinary approach and programmes of integrated and comprehensive agricultural and rural development;
- c) to undertake a joint programme of work among Members of the Commission;
- d) to assist the Organization in identifying and addressing issues of common interest to Members of the Commission;
- e) to assist the Organization in formulating future work programmes including promotion of regional and sub-regional cooperation to overcome problems on water resources management, sustainable land use and completion of data relating to development and conservation of the land and water resources in the Region;
- f) to promote the formulation of programmes in the Region on food production, plant protection, animal health and livestock production, development of agricultural research systems, and identification of efficient agricultural services to farmers; and
- g) to assist Members of the Commission in preparing project documents to be submitted to donors, particularly those related to priority areas and transboundary issues

### **Article IV. Bureau**

1. The Commission shall elect, at the end of every regular session, a Chairperson, two Vice-Chairpersons and two members from among the representatives, which collectively shall constitute the Bureau of the Commission. The Chairperson and Vice-Chairpersons shall be elected for a term of office of two years and shall not be eligible for re-election immediately thereafter, provided that the Vice-Chairpersons shall be eligible for election as Chairperson. The term of office of the elected members shall be for a period of two years and they shall be eligible for re-election for up to two additional two-year terms. In order to ensure both rotation of members and continuity of service, when electing members of the Bureau, due consideration shall be given to the desirability of replacing no more than three members at the same time.

2. The Chairperson, or in his absence one of the Vice-Chairpersons, or in their absence one of the elected members, shall have the following functions:

- a) preside at meetings of the Commission and Bureau;
- b) liaise with the Chairperson of the Regional Conference regarding the work programmes of the Commission;

- 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 Commission sessions and meetings of the Bureau;
  - d) liaise with the secretariat and other officials of the Organization in respect of any concerns of the membership; and
  - e) exercise such other functions as may be required to facilitate the work of the Commission or the Bureau.
3. The Vice-Chairperson or elected member acting as Chairperson shall have the same powers and duties as the Chairperson.
  4. In the event that the Chairperson, the two Vice-Chairpersons and the two elected members are unable to serve, the Director-General of the Organization or his representative shall act as Chairperson, until an *ad hoc* Chairperson is elected.
  5. The Commission may elect one or more rapporteurs from among the representatives.
  6. The Bureau shall, between sessions of the Commission, act on behalf of the Commission as its executive body. In particular, it shall submit to the Commission proposals concerning the general orientation of the Commission's activities and its programme of work; it shall investigate particular problems and help to ensure implementation of the programme approved by the Commission. It shall periodically inform all Members of the Commission, through the Director-General, of any decisions taken. Such decisions shall be subject to confirmation by the Commission at its next session.
  7. The Director-General may convene the Bureau as often as required, after consulting with the Chairperson. The Bureau shall meet whenever the Commission holds a session.
  8. The Director-General shall appoint from among the staff of the Organization a Secretary of the Commission who shall be responsible to him.

## **Article V.     Sessions**

1. The Commission shall normally hold only such sessions in each biennium as are listed in the Programme of Work and Budget of the Organization for the relevant period. However, the Director-General may make exceptions when in consultation with the Commission and in his view, such action is necessary for the fulfilment of the Programme of Work and Budget as approved by the Conference. Such exceptions shall be reported to the session of the Council immediately following such action.
2. The sessions of the Commission shall be convened by the Director-General, who shall decide on the place where they are to be held, in consultation with the Chairperson and the competent authorities of the host country, taking into account the views expressed by the Commission.
3. Notice of the date and place of each session of the Commission shall normally be communicated at least three months before the opening of the session is scheduled to take place to all Members of the Commission.
4. Each Member of the Commission shall have one representative who may be accompanied by alternates and advisers. An alternate or adviser shall not have the right to vote except when substituting the representative.
5. Meetings of the Commission shall be held in public unless the Commission decides otherwise.
6. A majority of the Members of the Commission shall constitute a quorum that is half the number of Members plus one.

**Article VI. Agenda**

1. The Director-General, in agreement with the Chairperson of the Commission, after having examined the proposals of the Bureau shall prepare a provisional agenda for each session of the Commission.
2. The first item in the provisional agenda shall be the adoption of the agenda. No matter referred to the Commission by the Conference or Council of the Organization may be omitted from the agenda.
3. Any Member of the Commission may request the Director-General to include specific items in the provisional agenda at any time before the circulation of the agenda.
4. The provisional agenda shall be circulated by the Director-General at least two months before the date on which the opening of the session is scheduled to take place, to all Members of the Commission.
5. Any Member of the Commission and the Director-General may, after the dispatch of the provisional agenda but not later than one month before the date on which the opening of the session is scheduled to take place, propose the inclusion of specific items in the agenda. Such proposals shall be accompanied by a written explanation of the reasons why the inclusion of the items in the agenda is considered desirable. These items shall be placed on a supplementary list, which shall be dispatched by the Director-General to all Members of the Commission, failing which the items shall be communicated to the Chairperson for submission to the Commission.
6. Documents to be submitted to the Commission at any session shall be furnished by the Director-General to the Members of the Commission and to the other Members of the Organization attending the session and to the non-Member Nations and international organizations invited to the session, at the time the agenda is dispatched or as soon as possible thereafter.
7. Subject to paragraph 2 above, the Commission may, at any session, decide by a two-thirds majority to amend the agenda by the deletion, addition or modification of any item. Formal proposals relating to items on the agenda and amendments thereto shall be introduced in writing and handed to the Chairperson, who shall circulate copies to the representatives.

**Article VII. Voting and Procedures**

1. Each Member of the Commission shall have one vote.
2. Decisions of the Commission shall be taken by a majority of the votes cast, unless otherwise provided.
3. Any Member of the Commission may request a roll-call vote, in which case the vote of each Member shall be recorded.
4. When the Commission so decides, voting shall be by secret-ballot.
5. Voting shall be carried out in accordance with the pertinent provisions of Rule XII of the General Rules of the Organization, as appropriate.

**Article VIII. Subsidiary bodies and *ad hoc* meetings**

1. The Commission may establish such subsidiary bodies as it deems necessary for the accomplishment of its task.

2. Membership in subsidiary bodies may be made up of all or selected Members of the Commission or of individuals appointed in their personal capacity.
3. The Commission may recommend to the Director-General the convening of *ad hoc* meetings, either of representatives of Members of the Commission or of experts serving in individual capacity, in order to study issues that because of their specialized nature could not fruitfully be discussed during the normal sessions of the Commission.
4. Experts who are to serve in their personal capacity as members of any subsidiary body or who are to be invited to attend *ad hoc* meetings shall be chosen by the Commission unless the Commission decides otherwise, and shall be appointed by the Director-General in accordance with established procedures.
5. The terms of reference of the subsidiary bodies and the questions to be discussed by *ad hoc* meetings shall be determined by the Commission.
6. The establishment of subsidiary bodies and the convening of *ad hoc* meetings shall be subject to the availability of the necessary funds in the relevant chapter of the approved budget of the Organization. The determination of such availability shall be made by the Director-General. Only such sessions of subsidiary bodies and *ad hoc* meetings shall be convened in each biennium as are listed in the Programme of Work and Budget of the Organization for the relevant period, subject, however, to the authority of the Director-General to make exceptions when in his view such action is necessary for the fulfilment of the Programme of Work and Budget as approved by the Conference; these exceptions being reported to the Session of the Council immediately following such action.
7. Before taking any decision involving expenditures in connection with the establishment of subsidiary bodies or the convening of an *ad hoc* meeting, the Commission shall have before it a report from the Director-General on the administrative and financial implication thereof.
8. The Statutes of the Commission shall apply to its subsidiary bodies, as appropriate.

#### **Article IX. Records and Reports**

1. At each session, the Commission shall approve a report embodying its views, recommendations and decisions, including, when requested, a statement of minority views. Such other records for its own use as the Commission may on occasion decide shall also be maintained.
2. The report of the Commission shall be transmitted to the Director-General of the Organization at the close of each session, who shall circulate them to Members of the Commission, and observers that were represented at the session for their information and, upon request to other Member Nations and Associate Members of the Organization.
3. The Director-General shall bring to the attention of the Conference any recommendations adopted by the Commission which have policy or regulatory implications and to the Council any recommendations which may affect the programme or finances of the Organization.
4. The Director-General of the Organization may request Members of the Commission to supply the Commission with information on actions taken on the basis of recommendations made by the Commission.

#### **Article X. Expenses**

1. The expenses of the Secretariat of the Commission shall be determined and paid by the Organization within the limits of the relevant appropriations in the approved budget of the Organization.



2. Expenses incurred by representatives of Members of the Commission, their alternates or advisers, when attending sessions of the Commission, their Bureau, its subsidiary bodies or *ad hoc* meetings, as well as expenses incurred by observers at sessions, shall be borne by the respective governments or organizations.
3. Expenses incurred by experts invited by the Director-General to attend sessions or meetings in their individual capacity shall be borne by the Organization.
4. Any financial matter relating to the Commission and its subsidiary bodies shall be governed by the appropriate provisions of the Financial Regulations of the Organization.

#### **Article XI. Observers**

1. Any Member Nation or Associate Member of the Organization that is not a Member of the Commission but has an interest in the work of the Commission may, upon its request and in consultation with the Commission, be invited by the Director-General to attend meetings of the Commission or its subsidiary bodies, as well as *ad hoc* meetings in an observer capacity.
2. Non-Member of the Organization that are members of the United Nations, any of its Specialized Agencies or the International Atomic Energy Agency may, upon their request and with the approval of the Council of the Organization, be invited to attend meetings of the Commission or its subsidiary bodies and *ad hoc* meetings in an observer capacity, in accordance with the provisions relating to the granting of observer status to nations adopted by the Conference of the Organization.
3. The Director-General may invite international organizations to attend sessions of the Commission in an observer capacity. Participation of international organizations in the work of the Commission and the relations between the Commission and such organizations shall be governed by the relevant provisions of the Constitution of the Organization and the General Rules of the Organization as well as by the general regulations of the Organization on relations with international organizations. All such relations shall be dealt with by the Director-General of the Organization.

#### **Article XII. Languages**

1. The working languages of the Commission shall be Arabic and English.
2. The Commission may decide, in consultation with the Secretariat, which of these languages will be used by its subsidiary bodies or at the *ad hoc* meetings. Any representative using another language shall provide for interpretation in one of the working languages.

#### **Article XIII. Amendments to the Statutes**

The Commission may suggest amendments to these Statutes which shall be in conformity with the Constitution and the General Rules of the Organization and with the Statement of Principles Governing Commissions and Committees adopted by the Conference. Any proposal for such amendments must be transmitted to the Director-General in time for inclusion in the agenda of the Council or Conference as appropriate.

## Appendix III

### Resolution /2013

#### Amendments to Rule XXIX.2, Rule XXX.2, Rule XXXI.2 and Rule XXXII.2 of the General Rules of the Organization

#### THE CONFERENCE,

**Having taken note** of the views of the Committee on Constitutional and Legal Matters (CCLM), at its Ninety-fifth session (Rome, 8-11 October 2012) on the proposed amendments to Rule XXIX.2 (Committee on Commodity Problems), Rule XXX.2 (Committee on Fisheries), Rule XXXI.2 (Committee on Forestry) and Rule XXXII.2 (Committee on Agriculture) of the General Rules of the Organization;

**Considering** that the Council, at its Hundred and Forty-fifth Session (Rome, 3-7 December 2012), endorsed the amendments proposed by the CCLM and agreed to transmit them to the Conference for approval;

**Having noted** that the Rules on membership require the effective presence of Members at the meetings of the above Committees to avoid the validity of deliberations being questioned;

**Having further noted** that allowing a notification of membership to be made at “*any time*” creates a high degree of uncertainty and that the proposed amendments would contribute to eliminate this uncertainty by setting a time frame during which no further changes in membership are allowed in respect of an upcoming session of a Committee;

**Decides** to amend Rule XXIX.2, Rule XXX.2, Rule XXXI.2 and Rule XXXII.2 of the General Rules of the Organization as follows<sup>2</sup>:

“2. The notification referred to in paragraph 1 may be made at any time *but not later than 10 days before the opening date of a session.* ~~and in~~ Membership acquired on the basis thereof shall be considered valid unless the Member has not been represented at two consecutive sessions of the Committee, or has notified its withdrawal from it. The Director-General shall circulate, at the beginning of each session of the Committee, a document listing the Members of the Committee.”

(Adopted on ....June 2013)

---

<sup>2</sup> Deletions are indicated using ~~strikethrough text~~ and insertions are indicated using *underlined italics*.

## Appendix IV

### Draft Council Resolution Containing the Revised Statutes of Advisory Committee on Paper and Wood Products

#### THE COUNCIL,

**Recalling** that, pursuant to Conference Resolution 30/59 of 1959, the Director-General established, under Article VI, paragraph 2 of the Constitution, an Advisory Committee on Pulp and Paper to advise him on FAO's work in the field of pulp and paper industries and related matters;

**Recalling** that, pursuant to Council Resolution 3/43 of 1964, the Director-General established, under Article VI, paragraph 2 of the Constitution, a Committee on Wood-Based Panel Products to advise him on matters related to wood-based panel industries;

**Recalling** that, pursuant to Council Resolution 2/111 of 1996, the Council authorized the Director-General to: i) broaden the mandate of the Advisory Committee on Pulp and Paper to include panel products and sawn wood; ii) changed the title of the Advisory Committee on Pulp and Paper to Advisory Committee on Paper and Wood Products (ACPWP); and iii) further decided that the Advisory Committee on Paper and Wood Products shall consist of not less than 15 and not more than 25 leading experts, familiar with problems of forest industries, designated by the Director-General, serving in their personal capacity and at their own expense, reflecting broadly the interest of producer and consumer countries and representative of the several regions;

**Recognizing** the importance of the findings of the ACPWP Working Meetings, held in Rome respectively on 18 October 2011 and 27 February 2012, which drew the attention of the Director-General to the growing importance of the Committee on advising the Organization on the dynamic diversification of the forest-based industry to respond more comprehensively to the global challenges on sustainable development, food security, and opening pathways to bio-economy with new product streams and innovations;

**Recognizing** the relevance of private forest owners and forest-based industries in encouraging proper management and custodianship of forests, in fostering environmental resilience, in generating green jobs for rural communities, and in raising living standards and eradicating hunger in the developing nations;

**Concurring** with the importance attached by the 53<sup>rd</sup> Session of the FAO Advisory Committee on Paper and Wood Products held in India, 23 -24 May 2012, to the potential contribution of forest industries in fulfilling the Organization's new Strategic Objectives in which forestry and forest-based products play a vital role, and to the effective role of private forest growers and the industry in the mitigation of, and adaption to, climate change, and in improving energy security;

**Noting** that the Committee on Forestry (COFO) recommended, at its 21<sup>st</sup> Session, in the context of the new FAO Strategic Framework, for enhancing inputs to and implementing the priorities of the FAO Programme of Work and Budget (PWB) in forestry, and emphasizing the importance of linkages with

and inputs from the private sector to the work of FAO and COFO, the revision of the Statutes of the Advisory Committee on Paper and Wood Products (ACPWP) including its mandate, name and membership;

**Decides** to authorize the Director-General to broaden the mandate of the Advisory Committee on Paper and Wood Products (ACPWP) into sustainable production and consumption of forest industry products, and on consistent support on related policy work and regulatory matters;

**Decides** to change the name of the Advisory Committee on Paper and Wood Products to Advisory Committee on Sustainable Forest-based Industries (ACSFI);

Further **decides** to promulgate, under Article VI, paragraph 2 the Statutes of the Advisory Committee on Sustainable Forest-based Industries (ACSFI) hereinafter referred to as “the Committee” as follows:

### **Article 1 Membership**

1. The Committee shall consist of not less than 15 and not more than 30 leading experts, familiar with problems of forest industries, designated by the Director-General, serving in their personal capacity and at their own expense, reflecting broadly the interests of producer and consumer countries and representative of all the regions.

2. Representatives of international financial institutions, civil society, including the private sector may be invited by the Committee to attend a session of the Committee and may, with the approval of the Chairperson of the Committee, participate in the discussion of one or more specific items of the agenda of a session. Representatives shall be invited to a session - because of their special qualifications and any other considerations relevant to the work of the Committee.

### **Article 2 Objectives**

1. The Committee shall advise the Director-General on FAO’s programme in the field of sustainable production and consumption of forest industry products, and on consistent support on related policy work and regulatory matters.

2. The Committee shall assist the Organization in identifying key issues across the forest industry value chains related to the economic, environmental, social and cultural aspects of private forest ownership, sustainable forest management, harvesting, processing, investments, trade, consumption, and associated benefits in carbon balance and in other ecosystem services.

3. The Committee shall seek to maximize the potential of multiple forest sector benefits from innovations and more efficient small, medium and large-scale processing of mechanical, chemical and energy products of roundwood, logging residues, recycled forest products and industry waste.

4. The Committee shall aim at improving communication, knowledge and information exchange and training on best practices between Members, private sector experts and the Organization.

### **Article 3 Terms of Reference**

The terms of reference of the Committee shall be:

- a. to advise the Director-General of the Organization on concepts, projects policy work and fundraising in relevant forest sector activities through bilateral or multilateral donor institutions, International Financial Institutions and private sector organizations in accordance with the FAO Strategy on Partnerships with the Private Sector;
- b. to advise and provide guidance on how FAO may better serve Member Nations at their request to solve specific problems in forestry, forest products and forest industries;
- c. to suggest new activities for the Organization, and review studies and statistical data compiled by the Organization on forests, products and forest industries;
- d. to suggest and organize jointly with FAO international meetings and events; and
- e. to provide input to assist the Organization in formulating future work programmes and in identifying priority areas of work in order to incorporate the private sector perspectives.

### **Article 4 Steering Committee**

1. The Committee shall elect its own Chairperson and Vice-Chairperson from among its members, who shall remain in office until the election of a new Chairperson and Vice-Chairperson.
2. The Committee shall elect a Steering Committee from among its members, which, in addition to the Chairperson, shall consist of four to six members.
3. Between sessions, the Steering Committee shall assist the Chairperson of the Committee, and facilitate consultation with members in relation to agendas and other matters, and perform other actions as the implementation of the work programme of the Committee may require.

### **Article 5 Sessions**

The Director-General of the Organization in consultation with the Chairperson of the Committee shall convene periodic sessions of the Committee and shall determine their site and date.

### **Article 6 Secretary**

1. The Secretary of the Committee shall be appointed by the Director-General according to the Rules and Regulations of the Organization and shall be administratively responsible to him.
2. The necessary secretariat expenses for the Committee shall be borne by the Organization.

### **Article 7 Working Groups**

1. The Committee may establish working groups on matters of major importance or of specialized nature.
2. Establishment of any working groups shall be subject to the availability of the necessary Resources, including financial and human resources.

**Article 8 Reporting**

1. The Committee shall submit to the Director-General reports on its activities, recommendations and conclusions including, when appropriate, statements of minority views, at such appropriate intervals as to enable the Director-General to take them into consideration when preparing the Programme of Work and Budget of the Organization and other submissions to the governing bodies of the Organization, including the Committee on Forestry.

2. Recommendations having policy or programme implications for the Organization shall be brought by the Director-General to the attention of the Committee on Forestry.

3. The Director-General may invite the Committee to report on its work and in particular on the views of the private sector at each sessions of the Committee on Forestry (COFO).

**Article 9 Other matters**

The provisions of the General Rules of the Organization apply *mutatis mutandis* to all matters that are not specifically dealt with under these Statutes.