



CONVENTION AND BASIC RULES OF PROCEDURE OF IICA

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FOREWORD

This volume of IICA's Official Documents Series contains the text of the Convention on the Inter-American Institute for Cooperation on Agriculture, and the texts of the Rules of Procedure of the Institute's governing bodies: the Inter-American Board of Agriculture (IABA), the Executive Committee and the General Directorate.

The Rules of Procedure were approved during the First Regular Meeting of the IABA in August 1981. This volume includes the amendments to these Rules, adopted by the IABA and the Executive Committee in subsequent meetings. The date of the meeting during which the amendments were approved appears after each amended Article.

Amendments made to these Rules of Procedure after October 1999 (Tenth Regular Meeting of the IABA) will be printed separately for inclusion in this document.

INTRODUCTION

Background

The origin of the Inter-American Institute of Agricultural Sciences stems from the basic idea of creating an inter-American institute on tropical agriculture, contained in Resolution XVI of the First Inter-American Conference on Agriculture, held in Washington D.C., in 1930. The form and existence of the Inter-American Institute of Agricultural Sciences derives from provisions adopted by the Inter-American Commission on Tropical Agriculture, appointed by the Governing Board of the Pan American Union, in compliance with two resolutions from Section IV of the Eighth American Scientific Congress held in Washington D.C., in May, 1940.

By virtue of these provisions, and with the October 7, 1942 approval of the Governing Board of the Pan American Union, the Inter-American Institute of Agricultural Sciences was born. It was incorporated in accordance with the laws of the District of Columbia, United States of America, in order to "encourage and advance the development of agricultural sciences in the American Republics." The provisions for incorporation added that "the existence of the Institute" could be "altered by the members upon conclusion of a treaty or convention among the governments of the American Republics," for the purpose of establishing and sustaining an organization whose purposes would be "analogous with those of the Institute itself."

The Institute was formally inaugurated on March 19, 1943, in Turrialba, Costa Rica.

Later the Institute became an inter-American organization, by virtue of the multilateral Convention opened to the signature of the American States at the Pan American Union on January 15, 1944. This Convention was first signed by the Representatives of Costa Rica, Nicaragua, Panama and the United States of America, and entered into effect on December 1, 1944.

Several years later, on February 16, 1949, the Council of the Organization of American States recognized the Institute as an specialized agency of the Inter-American System, in accordance with the provisions of Chapter XV of the Charter of the Organization.

Ever since it was established as an agricultural research and training center, the Institute has been gradually expanding its scope, programs and activities. It has modified its structure in accordance with the requirements for technical cooperation expressed by the governments of the Member States for promoting agricultural development and improving rural life.

The New Convention

The progressive evolution of the Institute led to a revision of the 1944 Convention. The text of the new Convention on the Inter-American Institute for Cooperation on Agriculture is the final product of this process of revision. It was opened to the signature of the Member States of the Organization of American States or of the Inter-American Institute of Agricultural Sciences on March 6, 1979. It may also be signed by other American States if their admission into the Institute is approved by a favorable vote of two thirds of the Member States of the Inter-American Board of Agriculture.

This new instrument introduces important changes into the structure of the Institute. It consolidates and broadens the purposes to "encourage, promote and support the efforts of the Member States to achieve their agricultural development and rural welfare."

The Convention "shall enter into force among the States that ratify it when two-thirds of the States Parties to the 1944 Convention on the Inter-American Institute of Agricultural Sciences have deposited their respective instruments of ratification. It shall enter into force with respect to the remaining States when they deposit their respective instruments of ratification or accession."

The 1944 Convention expired when the 1979 Convention went into force.

**CONVENTION ON THE INTER-AMERICAN INSTITUTE FOR
COOPERATION ON AGRICULTURE**

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**CONVENTION ON THE INTER-AMERICAN INSTITUTE
FOR COOPERATION ON AGRICULTURE**

Opened for signature at the General Secretariat of
the Organization of American States
on March 6, 1979 and

Ratified on December 8, 1980

The American States, members of the Inter-American Institute of Agricultural Sciences,

With the intention of strengthening and broadening the action of the Inter-American Institute of Agricultural Sciences as an organization specialized in agriculture, an institute established in compliance with the pertinent resolution adopted by the Eighth American Scientific Congress, held in Washington, D.C., in 1940, and in accordance with the terms of the Convention opened to signature by the American Republics at the Pan American Union on January 15, 1944,

HAVE AGREED

on the following:

CHAPTER I

NATURE AND PURPOSES

Article 1. The Inter-American Institute of Agricultural Sciences, established by the Convention opened to signature by the American Republics on January 15, 1944, shall be called "The Inter-American Institute for Cooperation on Agriculture" (hereinafter the Institute), and shall be governed by the present Convention.

Article 2. The Institute shall be of inter-American scope, shall have international juridical personality, and shall be specialized in agriculture.

Article 3. The purposes of the Institute are to encourage, promote, and support the efforts of the Member States to achieve their agricultural development and rural welfare.

Article 4. To achieve its purposes, the Institute shall have the following functions:

- a. To promote the strengthening of national education, research, and rural development institutions, in order to give impetus to the advancement and the dissemination of science and technology applied to rural progress;
- b. To formulate and execute plans, programs, projects, and activities, in accordance with the needs of the governments of the Member States, to contribute to the achievement of the objectives of their agricultural development and rural welfare policies and programs;
- c. To establish and maintain relations of cooperation and coordination with the Organization of American States and with other agencies or programs, and with governmental and non-governmental entities that pursue similar objectives; and
- d. To act as an organ for consultation, technical execution, and administration of programs and projects in the agricultural sector, through agreements with the Organization of American States, or with national, inter-American, or international agencies and entities.

CHAPTER II

MEMBERS

Article 5. The Member States of the Institute shall be:

- a. The Member States of the Organization of American States or of the Inter-American Institute of Agricultural Sciences that ratify this Convention;
- b. Other American states whose admission has been accepted by the affirmative vote of two-thirds of the Member States on the Inter-American Board of Agriculture, and which accede to the present Convention.

CHAPTER III

THE ORGANS

Article 6. The Institute shall have the following organs:

- a. The Inter-American Board of Agriculture;
- b. The Executive Committee; and
- c. The General Directorate.

CHAPTER IV

THE INTER-AMERICAN BOARD OF AGRICULTURE

Article 7. The Inter-American Board of Agriculture (hereinafter the Board) is the highest organ of the Institute, and shall be composed of all the Member States. The Government of each Member State shall appoint one representative, who shall preferably be connected with agricultural and rural development. Each Government may also appoint alternate representatives and advisers.

Article 8. The Board shall have the following functions:

- a. To adopt measures related to the policy and action of the Institute, taking into account the proposals of the Member States and the recommendations of the General Assembly and the Councils of the Organization of American States;

- b. To approve the biennial program-budget and to determine the annual quotas of the Member States, by the affirmative vote of two thirds of its members;
- c. To serve as a forum for the exchange of ideas, information, and experience related to the improvement of agriculture and rural life;
- d. To decide on the admission of Member States, in accordance with Article 5, subparagraph (b);
- e. To elect the Member States that will compose the Executive Committee, in accordance with the principles of partial rotation and equitable geographic distribution;
- f. To elect the Director General and set his remuneration; to remove him by the vote of two-thirds of the Member States, whenever the proper functioning of the Institute so demands;
- g. To consider the reports of the Executive Committee and of the Director General;
- h. To encourage cooperation between the Institute and other organizations, agencies, and entities that pursue analogous purposes; and
- i. To adopt its Rules of Procedure and the agenda for its meetings, and also the Rules of Procedure of the Executive Committee and the regulations of the General Directorate.

Article 9. The Board shall meet regularly every two years during the period determined by its Rules of Procedure and at a place selected in accordance with the principle of rotation. At each regular session the date and place of the next regular session shall be determined, in accordance with the Rules of Procedure. If no site is offered or the regular session cannot be held at the place chosen, the session shall be held at the headquarters of the Institute. However, if one of the Member States should make a timely offer of a site in its territory, the Executive Committee, whether in session, or acting through consultation of its members by correspondence, may agree, by the vote of a majority of its members, that the session be held at that place.

Article 10. In special circumstances, and at the request of one or more Member States, or of the Executive Committee, the Board may hold special sessions, for the convocation of which approval by the affirmative vote of two thirds of the Member States shall be required. In case the Board is not in session,

the Director General shall consult the Member States by correspondence concerning the request and shall convoke the Board if not less than two thirds of them are in agreement.

Article 11. The presence of the representatives of a majority of the Member States shall constitute a quorum. Each Member State is entitled to one vote.

Article 12. Decisions of the Board shall be taken by the vote of a majority of the representatives present, except as provided in Article 19, in which case the vote of a majority of the Member States is required, and also as provided in Articles 5(b); 8(b) and (f); 10 and 35, in which cases the vote of two thirds of the Member States is required.

CHAPTER V

THE EXECUTIVE COMMITTEE

Article 13. The Executive Committee (herein after the Committee) shall be composed of twelve Member States elected in accordance with Article 8, subparagraph (e), for a two-year term. The Government of each elected State shall designate one representative, preferably connected with agricultural and rural development; it may also designate alternate representatives and advisers.

The Board shall determine, in its Rules of Procedure, the manner of designating the Member States whose representatives shall make up the Committee. A Member State that has concluded its term may not resume membership on the Committee before a period of two years has elapsed.

Article 14. The Committee shall have the following functions:

- a. To perform the functions that may be assigned to it by the Board;
- b. To examine the proposed biennial program budget that the Director General submits to the Board and to make such observations and recommendations as it deems appropriate;
- c. To authorize the use of resources of the Working Capital Fund for special purposes;
- d. To act as the preparatory committee of the Board;
- e. To study and formulate comments and recommendations to the Board and to the General Directorate on matters of interest to the Institute;

- f. To recommend to the Board draft rules of procedure to govern its meetings and those of the Committee, as well as the draft regulations of the General Directorate; and
- g. To watch over the observance of the standards of the General Directorate.

Article 15. The Committee shall hold one regular meeting each year, at the headquarters of the Institute or at the place agreed upon at the preceding meeting. It may hold special meetings at the initiative of any Member State or at the request of the Director General, provided the proposal is approved by a majority of the Board, if it is in session or by two-thirds of the Committee, whose members may be consulted by correspondence.

Article 16. The Institute shall defray the travel expenses of one representative of each State that is a member of the Committee to participate in its regular meetings.

Article 17. The presence of the representatives of a majority of the Members States of the Committee shall constitute a quorum. The Committee shall take its decisions by the vote of a majority of its members, except as provided in Article 15. Each member is entitled to one vote.

CHAPTER VI

THE GENERAL DIRECTORATE

Article 18. The General Directorate shall exercise the functions established in this Convention and those assigned to it by the Board, and shall also perform the tasks entrusted to it by the Board and the Committee.

Article 19. The General Directorate shall be under the responsibility of the Director General, who shall be a national of one of the Member States, elected by the Board by the vote of a majority of the Member States, for a four-year term. He may be reelected only once and may not be succeeded by a person of the same nationality.

Article 20. The Director General, under the supervision of the Board, shall have the legal representation of the Institute, and the responsibility to administer the General Directorate in order to carry out its functions and obligations. The Director General shall have the following specific functions, which shall be performed in accordance with the standards and regulations of the Institute and the corresponding budgetary provisions:

- a. To administer the financial resources of the Institute, in accordance with the decisions of the Board;
- b. To determine the number of staff members; to regulate their powers, rights, and duties; to fix their remuneration; and to appoint and remove them, in accordance with the standards established by the Board or the Committee;
- c. To prepare the proposed biennial program-budget and to submit it to the Committee, with the observations and recommendations of the latter, to the Board;
- d. To present to the Board, or to the Committee in the years in which the Board does not meet, an annual report on the activities and financial condition of the Institute;
- e. To establish the relations for cooperation and coordination provided for in Article 4(c); and
- f. To participate in the meetings of the Board and the Committee but without the right to vote.

Article 21. In selecting the personnel of the Institute, first consideration shall be given to efficiency, competence, and integrity, but at the same time, in the

recruitment of international personnel of all ranks, importance shall be given to the necessity of obtaining as wide a geographic representation as possible.

Article 22. In the performance of their duties, the Director General and the personnel of the Institute shall not seek or receive instructions from any government or from any authority outside the Institute, and shall refrain from any action incompatible with their position as officers of an international organization, responsible only to the Institute.

CHAPTER VII

FINANCIAL RESOURCES

Article 23. The Member States shall contribute to the maintenance of the Institute through annual quotas established by the Board, in accordance with the system for calculating quotas of the Organization of American States.

Article 24. A Member State that is in arrears in the payment of its quotas for more than two complete fiscal years shall have its right to vote suspended in the Board and the Committee. However, the Board or the Committee may permit the Member State to vote if it considers that the failure to pay is due to circumstances beyond the control of that state.

Article 25. The Institute, *ad referendum* the Committee, and through the Director General, may accept special contributions, legacies, bequests, or grants, provided that they are compatible with the nature, purposes, and standards of the Institute, as well as with its interests.

CHAPTER VIII

LEGAL CAPACITY, PRIVILEGES, AND IMMUNITIES

Article 26. The Institute shall enjoy, in the territory of each of its Member States, the legal capacity, privileges, and immunities necessary for the exercise of its functions and the accomplishment of its purposes.

Article 27. The representatives of the Member States at the meetings of the Board and of the Committee, as well as the Director General, shall enjoy the privileges and immunities corresponding to their positions and necessary for the independent performance of their duties.

Article 28. The juridical status of the Institute and the privileges and immunities that should be granted to it and to its personnel shall be determined in

accordance with a multilateral agreement to be concluded among the Member States of the Organization of American States, or, when it is deemed necessary, in agreements concluded on a bilateral basis by the Institute with its Member States.

Article 29. In order to carry out its purposes, and in accordance with the laws in force in the Member States, the Institute may enter into and carry out contracts or agreements; hold funds, real property, movable property, and livestock; and purchase, sell, lease, improve, or operate any goods or property.

CHAPTER IX

HEADQUARTERS AND LANGUAGES

Article 30. The Institute shall have its headquarters in San Jose, Costa Rica, and may establish offices for purposes of technical cooperation in the Member States. The central office of the General Directorate shall be located in the headquarters of the Institute.

Article 31. The official languages of the Institute shall be English, French, Portuguese, and Spanish.

CHAPTER X

RATIFICATION AND ENTRY INTO FORCE

Article 32. This Convention shall remain open for signature by the Member States of the Organization of American States or of the Inter-American Institute of Agricultural Sciences. Any other American State may accede to it, in accordance with the provision set forth in Article 5, subparagraph (b), of this Convention.

Article 33. This Convention shall be ratified by the Signatory States in accordance with their respective constitutional procedures. This Convention, as well as the instruments of ratification, shall be delivered for deposit in the General Secretariat of the Organization of American States. The General Secretariat shall transmit certified copies of this Convention to the governments of the Signatory States and to the General Directorate of the Institute, and shall notify them of the deposit of each instrument of ratification or accession.

Article 34. This Convention shall enter into force among the States that ratify it when two thirds of the States Parties to the 1944 Convention on the Inter-American Institute of Agricultural Sciences have deposited their respective instruments of ratification. It shall enter into force with respect to the remaining States when they deposit their respective instruments of ratification or accession.

Article 35. Amendments to this Convention shall be proposed to the Board, and for their approval, the affirmative vote of two thirds of the Member States shall be required. The approved amendments shall enter into force among the ratifying States when two thirds of the Member States have deposited their respective instruments of ratification. They shall enter into force with respect to the remaining States when they deposit their respective instruments of ratification or accession.

Article 36. This Convention is of a permanent nature and shall remain in force for an indefinite period of time, but it may be denounced by any Member State by means of a notice delivered to the General Secretariat of the Organization of American States. The denunciation shall become effective one year after the corresponding notice and the Convention shall cease to be in force with respect to the denouncing State; however, it has to fulfill the obligations that arose from this Convention while it was in force with respect to said State.

Article 37. This Convention, the English, French, Portuguese, and Spanish texts of which are equally authentic, shall be registered with the Secretariat of the United Nations, in accordance with Article 102 of the Charter of the United Nations, through the General Secretariat of the Organization of American States. The General Secretariat of the Organization of American States shall notify the Secretariat of the United Nations of the signatures, ratifications, accessions, amendments, or denunciations concerning the Convention.

CHAPTER XI

TRANSITORY PROVISIONS

Article 38. The rights and benefits, as well as the privileges and immunities that have been granted to the Inter-American Institute of Agricultural Sciences and its personnel, shall be extended to the Institute and its personnel. The Institute shall take possession of the assets and property belonging to the Inter-American Institute of Agricultural Sciences and shall assume all the obligations the Inter-American Institute of Agricultural Sciences has contracted.

Article 39. The Convention on the Inter-American Institute of Agricultural Sciences, opened to signature by the American States on January 15, 1944, shall cease to be in force with respect to the States among which this Convention enters into force, but they shall remain committed to the fulfillment of any pending obligations that arose from the 1944 Convention. The 1944 Convention shall remain in force with respect to the remaining Member States of the Inter-American Institute of Agricultural Sciences until they ratify this Convention.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, their full powers having been found in due and proper form, sign this Convention, which is in English, French, Portuguese, and Spanish, in Washington, D.C., United States of America, in representation of their respective States, on the dates indicated next to their signatures.

**CONVENTION ON THE INTER-AMERICAN INSTITUTE FOR
COOPERATION ON AGRICULTURE**

Opened for signature at the General
Secretariat of the OAS on March 6, 1979

Entry into force on December 8, 1980

SIGNATORY COUNTRIES	DATE OF DEPOSIT OF THE INSTRUMENT OF RATIFICATION
Antigua and Barbuda	July 23, 1987
Argentina	May 6, 1981
Bahamas (Commonwealth of the)	August 21, 1996
Barbados	October 24, 1979
Belize	November 9, 1992
Bolivia	April 8, 1981
Brazil	October 2, 1980
Canada	July 11, 1979
Chile	February 14, 1980
Colombia	March 6, 1980
Costa Rica	December 8, 1980
Dominica	September 29, 1981
Dominican Republic	March 4, 1982
Ecuador	January 30, 1981
El Salvador	July 10, 1980
Grenada	December 22, 1980
Guatemala	May 27, 1980
Guyana	July 1, 1980
Haiti	March 26, 1980
Honduras	February 27, 1980
Jamaica	May 13, 1980
Mexico	March 6, 1980
Nicaragua	February 12, 1981
Panama	August 13, 1980
Paraguay	May 12, 1980
Peru	July 17, 1980
St. Lucia	December 9, 1981
St. Vincent and the Grenadines	August 20, 1987
St. Kitts and Nevis	July 23, 1990
Suriname	November 20, 1981
Trinidad and Tobago	December 5, 1980
United States of America	October 23, 1980
Uruguay	November 15, 1979
Venezuela	July 31, 1981

**REGULATIONS FOR APPLICATION OF ARTICLE 24 OF THE
CONVENTION ON THE INTER-AMERICAN INSTITUTE FOR
COOPERATION ON AGRICULTURE¹**

ARTICLE I

DEFINITIONS

- 1.1 "The Board" shall mean the Inter-American Board of Agriculture.
- 1.2 "The Committee" shall mean the Executive Committee.
- 1.3 "The IICA Convention" shall mean the Convention on the Inter-American Institute for Cooperation on Agriculture.
- 1.4 "Debtor State" shall mean any Member State that is more than two years in arrears in its quota obligations to IICA sixty days prior to the date of the corresponding Board or Committee Meeting.
- 1.5 "Member" shall mean a member of the Executive Committee in the case of meetings of the Executive Committee, and a Member of the Board in the case of the meetings of the Board.
- 1.6 "Meeting" shall mean a meeting of the Board or the Executive Committee, as the case may be.
- 1.7 The word "Plenary" shall mean the Plenary Sessions of the Board or the Committee.
- 1.8 The word "Plenary" shall mean the plenary sessions of any committee or working group of the Board or the Committee.

¹ Article 24 states:

“Article 24: A Member State that is in arrears in the payment of its quotas for more than two complete fiscal years shall have its right to vote suspended in the Board and the Committee. However, the Board or the Committee may permit the Member State to vote if it considers that the failure to pay is due to circumstances beyond the control of that state.”

The corresponding provisions are Article 69 of the Board's Rules of Procedure and Article 77 of the Executive Committee's Rules. Those Articles are virtually a verbatim repetition of Article 24 of the IICA Convention.

ARTICLE II

PURPOSE

- 2.1 The purposes of these Regulations are:
- 2.1.1 Given the importance of the fundamental right to vote in the institutions of the inter-American system, to provide an orderly and exclusive due process procedure for the suspension and restoration of voting rights in the Board and the Committee under Article 24 of the IICA Convention and the corresponding provisions of the Rules of Procedure of the Board and the Committee;
 - 2.1.2 To provide rules for determining the number of Member States that constitute a quorum in the Board and the Committee in the event the voting rights of one or more Member States are suspended under Article 24;
 - 2.1.3 To provide rules for determining the number of States that constitute a majority of the Member States, a two-thirds majority of the Member States, and a majority of the Member States present for purposes of satisfying voting requirements in the Committee and the Board in the event the voting rights of one or more Member States are suspended under Article 24.

ARTICLE III

NOTICE OF POSSIBILITY OF SUSPENSION

- 3.1 No earlier than 60 days prior to each Meeting of the Board and the Committee, but no later than 45 days prior to such Meeting, the Director General shall send to each Member State: a) a current statement showing the status of quota payments of all the Member States for each of the last five fiscal years, including the current fiscal year; b) a list of Debtor States; c) notice that there will be a hearing on whether to suspend or restore the voting rights of Debtor States in the Preparatory Session of the Meeting in accordance with Article 24 of the IICA Convention and these Regulations; and d) a copy of these Regulations.
- 3.2 Within the time frame set out in Paragraph 3.1 above, the Director General shall notify in writing each Debtor State whose vote is not already in suspension as a result of the prior application of these

Regulations: a) that its right to vote might be suspended at the meeting; b) that the suspension will be considered in the Preparatory Session in accordance with Article 24 of the IICA Convention and these Regulations; c) that the Board or Committee, as the case may be, may decide not to suspend the Debtor State's voting rights if it considers that the State's arrears are due to circumstances beyond the control of that State; d) that the Debtor State is urged to send to IICA within 25 days prior to the meeting for prior distribution to the Member States an explanation of why it is in arrears and any circumstances justifying the arrearages; and e) that failure to provide an explanation or failure to make a payment of quotas sufficient to remove Debtor State status is likely to result in suspension of the Debtor State's voting rights.

ARTICLE IV

PROCEDURE FOR THE SUSPENSION AND CRITERIA FOR DETERMINING WHETHER TO SUSPEND THE VOTING RIGHTS OF A DEBTOR STATE

- 4.1 The Preparatory Session of the Board or the Committee, as the case may be, shall include on its agenda the suspension of the voting rights of all Debtor States.
- 4.2 The Director General shall inform the Preparatory Session of any Debtor States whose status has changed since publication and transmission of the notice set out in Paragraph 3.1 of these Regulations.
- 4.3 The Preparatory Session shall provide each Debtor State that does not wish to have its vote suspended, or that wishes to have previously suspended voting rights restored, the opportunity to show cause why its right to vote should either not be suspended or should be restored, as the case may be.
 - 4.3.1 The Preparatory Session shall decide by a vote on whether it will conduct the show cause proceedings in its plenary session or whether it shall appoint a Special Working Committee for that purpose.
 - 4.3.2 If a Special Working Committee is so appointed, it shall conduct a show cause hearing for each Debtor State and make the corresponding recommendations on suspension for the approval of the Plenary Sessions of the Board or of the Committee, as the case may be. Any Debtor State whose right to vote is already in suspension as a result of the prior application of these

Regulations shall not be eligible to participate in the Special Working Committee. All other Members are eligible to participate provided, however, a majority of Non-Debtor States on the Special Working Committee is maintained.

- 4.3.3 Because a Member State has the right to vote until the Board or Committee votes to suspend that right, a Debtor State whose right to vote is not already in suspension as a result of the prior application of these Regulations may vote or otherwise participate in the decision on whether its vote is to be suspended.
- 4.3.4 The decision to suspend or restore a Debtor State's voting rights requires the approval of at least a majority of the Members present (of the Board or of the Committee, as the case may be).
- 4.4 The decision on whether to suspend or restore the voting rights of the Debtor State must be based on whether the cause of the indebtedness is due to circumstances beyond the Debtor State's control. Examples of circumstances where indebtedness may be considered beyond a Debtor State's control include, but are not limited to: natural disasters within the last twenty-four months having a substantial and unforeseen impact on the State's capacity to generate revenue to satisfy public obligations; a state of war caused by another State within the last twenty-four months requiring the Debtor State to divert an unforeseen and substantial amount of its revenues to self-defense; circumstances of a similar nature which in the judgment of the Member States prevent a Member State from satisfying its debt to the Institute without creating severe and undue hardship for that State. Each case shall be examined on its own merits. Past precedents established by the Institute, while not binding, shall be taken into account.
- 4.5 No binding obligation may be imposed on the Institute or the Member States by the Board or by the Committee, as the case may be, until either the corresponding Preparatory or Plenary Session has taken a decision on whether the voting rights of each and every Debtor State are to be suspended or restored for the Meeting.

ARTICLE V**DETERMINING QUORUM AND VOTING REQUIREMENTS
ONCE THE VOTING RIGHTS OF ONE OR MORE MEMBERS
HAVE BEEN SUSPENDED**

- 5.1 For purposes of computing the quorum requirements of the sessions of the Board and Committee under their respective Rules of Procedure, only Member States whose voting rights are not suspended shall be counted.
- 5.2 For the purposes of computing a majority of the members, a majority of the Members present, and a two-thirds majority of the Members, only Member States whose voting rights are not suspended shall be counted.

ARTICLE VI**RESTORATION OF VOTING RIGHTS**

- 6.1 A Debtor State's voting rights shall remain suspended until they are either restored automatically in accordance with Paragraph 6.2 below or restored by a vote of the Board or Committee, as the case may be, in accordance with Paragraph 6.4 below.
- 6.2 A Debtor State's voting rights shall be restored automatically when it ceases to be a Debtor State in accordance with these Regulations.
- 6.3 The Director General shall promptly notify the Members of the Board or Committee, as the case may be, of those States whose voting rights have been restored automatically.
- 6.4 Any Debtor State whose voting rights have been suspended in a Meeting of the Committee or Board and is still a Debtor State at the next Meeting of the Committee or Board may petition that next Meeting of the Committee or Board to restore its voting rights. That request shall be considered under the same procedure and criteria set out in Article IV above.

ARTICLE VII

EXCLUSIVITY

- 7.1 No voting rights of any Member State shall be suspended or restored under Article 24 of the IICA Convention by any procedures other than those established in these Regulations.

ARTICLE VIII

AMENDMENT

- 8.1 These Regulations may be amended only by a majority vote of the Members of the Board.

ARTICLE IX

PRECEDENCE

- 9.1 In the event of any conflict between these Regulations and the Rules of Procedure of the Board and the Committee, these Regulations shall govern.

ARTICLE X

PUBLICATION

- 10.1 These Regulations shall be published with the other Basic Rules of the Institute in Official Documents Series No. 22.

AIDE MEMOIRE

Suspension of the Right to Vote under Article 24 of the IICA Convention

I. THE PROBLEM

Article 24 of the IICA Convention² states:

A Member State that is in arrears in the payment of its quotas for more than two complete fiscal years shall have its right to vote suspended in the Board and the Committee. However, the Board or the Committee may permit the Member State to vote if it considers that the failure to pay is due to circumstances beyond the control of that state.

The text of this Rule gives rise to several questions. The first is whether suspension of the voting privilege is immediately automatic once a country has fallen into two years of arrears or whether there is a requirement of a prior hearing or other procedure guaranteeing due process to the affected State prior to the suspension of its voting privileges. Second, if there is a procedure required, what is it? Third, may a country which has fallen into more than two years of arrearages vote on whether its privileges may be suspended? Fourth, may a Member State whose voting privileges have been suspended be counted for purposes of computing the quorum for conducting a meeting or for determining the number of "members" necessary to constitute a majority or the members, a qualified majority of the members, or a majority of the members present? It is to a discussion of these questions that we now turn.

II. ANALYSIS

A. Is Suspension of Voting Privileges Automatic?

There is a reasonable argument for the position that the suspension of voting privileges under Article 24 is not automatic. That position finds support in the following considerations: (1) the inherent ambiguity of the text; (2) the lack of definitive legislative history; (3) logic, because the automatic application of the rule in the event that half the Member States owed more than two years arrears could paralyze the organization; and (4) the paramount importance of the right to vote in a democratic community, together with the principle that such fundamental rights should not be removed without due process.

² This provision is virtually repeated verbatim in both Article 69 of the Board's Rules of Procedure and Article 77 of the Rules of Procedure of the Executive Committee.

1. The Plain Meaning of the Text of Article 24

The plain meaning of the text of Article 24 does not necessarily support the conclusion that the loss of the right to vote is automatic when a country falls into more than two years of arrearages. It states that the defaulting country "shall have its right to vote suspended in the Board and the Committee." That wording gives rise to the interrogatories "how, and by whom shall a Member State have its vote suspended?" Will the suspension occur automatically as soon as the country falls in two years' arrearages? Will it occur only after there has been a hearing? Who will suspend the right and how and when shall notification of the suspension proceed? Will it be by the Board? the Credentials Committee? the Director General in the notice of convocation?

To avoid the ambiguity, the draftsmen could have used other language. For example, they could have inserted the word "automatically" after the word "suspended" to alleviate any doubt. Or they could have simply stated that any country that is more than two years in arrears "is ineligible to vote." In contrast, the words "will have its right to vote suspended" implies that the suspension of the right to vote could require a process. Moreover, the second sentence of Article 24, which states that the Board or Committee may permit a State in arrears to vote, further suggests that there must be a hearing or similar procedure in connection with the suspension of a Member State's right to vote.

2. Analysis Based on the Purposes of Article 24

The clear purpose of Article 24 is to enable the Institute to use the threat of loss of the vote as a means of assuring that the Member States will promptly comply with their quota obligations. Nonetheless, to date, we have not been able to locate any legislative history³ which would facilitate a conclusive determination as to whether the Member States, in adopting the Convention, intended the suspension of the right to vote to occur automatically.

Nonetheless, to the extent that practice is an indicator of intent, it would seem that the intent was that the loss of the vote should not be automatic. The problem of arrearages has existed at IICA since the Convention went into force in 1980 and well before that date. Notwithstanding widespread knowledge of Article 24 and the regular distribution to the Member States of information on the status of quota payments prior to Board and Committee meetings, no Member State's right to vote has ever been suspended automatically. Thus, practice supports the conclusion that suspension of the vote does not occur without some prior due process proceeding.

³ To date, efforts to locate legislative history on this provision of the Convention have proved futile. A diligent search of IICA's archives have revealed nothing. Further investigation is pending in the OAS archives.

3. The Logical Extension of a Rule Requiring Automatic Suspension Could Paralyze the Institute

It is hornbook law that laws must be construed to make sense, not nonsense. The reason is that there is a presumption, absent proof in the legislative history to the contrary, that the legislature was guided by reason and logic in promulgating the law.

In this instance, adoption of the position that suspension of the vote under Article 24 is automatic could result in a situation where it is impossible to satisfy the requirements under Article 12 of the IICA Convention and Article 71 of the Board's Rules of Procedure for a two-thirds vote of "the Member States" on the budget and other issues of critical importance to the functioning of the Institute⁴. The inability to satisfy those requirements for decision making at IICA could paralyze the Institute⁵.

Such a situation is not simply hypothetical. At this moment it is real. Presently there are fourteen countries that are more than two years in arrears. That constitutes more than one third of the Institute's membership. Thus, if the automatic suspension rule were to be applied, those countries would be barred from voting and the Board would be unable to adopt a budget resolution at its upcoming meeting.

Similarly, automatic suspension of the vote under Article 24 could have the effect of foreclosing any possibility of the Institute's governing bodies from making any decisions, including the decision to restore the vote to those countries whose vote had been automatically suspended. The reason is that the decision to

⁴ Under Article 71 of the Board Rules, "a two-thirds vote of the Member States shall be required to vote on: membership of non-OAS Member States; the program budget; removal of the Director General; Convocation of Special Meetings of the Board; inclusion of special urgent measures on the agenda; reconsideration of a Board decision already taken; amendments to the Convention; use of the method of voting by correspondence; approval of any issue by which voting by correspondence is used." To elect the Director General, convene special meetings of the Board, and resume discussion of a proposal previously accepted or rejected, an affirmative vote of "the majority of the Member States" is required. All other decisions require a "majority of the Member States present."

⁵ We use the word "could" here instead of "would" because this entire line of analysis is based on a "plain meaning" textual analysis of the IICA Convention and relevant Board Rules. A purposive analysis, as pointed out in Section D below, however, might result in a different conclusion as to how quorum requirements and the number of countries that constitute a majority or qualified majority are computed, and therefore, the paralysis explained in this Section A(3) would not occur if a purposive analysis were adopted.

restore the vote requires a decision of a majority of the members present, and to conduct any business requires a majority of the members under the Articles of the Convention. Thus, if 33 members were present and 17 were disenfranchised, it would be impossible to accumulate a majority vote of the members present -- 17 votes -- necessary to restore the vote to the members whose vote had been suspended. It should be presumed that such a prejudicial result for the Institute was not intended by the Member States in adopting Article 24, and that therefore, suspension of the vote is not automatic.

4. The Importance of the Right to Vote and the Requirements of Due Process

There is no right more fundamental to a Member State in a multilateral organization than the right to vote. That right recognizes the equality of all sovereign Member States under the law. International organizations are multinational fora in which Member States are able to take joint decisions on issues of common concern. The vote is the essential element of the democratic decision-making process by which international organizations manage their affairs. Removal of the vote from any Member State jeopardizes the multinational nature of those decisions and threatens the very rationale underlying an international organization's existence. For that reason, the removal of the right to vote by the Institute, like the removal or deprivation of any fundamental right of a citizen of a Member State, should not be automatic. Rather it should proceed only with due process which assures that the right will not be denied arbitrarily and without a right to be heard. Removal of the right to vote without due process would be inconsistent with the democratic principles which lie at the core of the inter-American system.

B. The Current Procedure for Applying Article 24

Although the Convention has been in force for seventeen years, the Institute has not adopted written rules for the procedure of suspending a Member State's voting rights. The drafting of such Rules for the Board's consideration is a specific task which the Board could entrust to the Director General as part of his mandate to study the means of decreasing arrearages and making the corresponding recommendations to the next Executive Committee.

Notwithstanding the absence of a written procedure, it cannot be said with certainty that there is no procedure for applying Article 24. Rather since the adoption of Article 24, IICA has followed a practice regarding the application of that Article, which constitutes the current procedure in force. That practice is that unless the question of suspension of the vote of a Member State is raised by another Member State in the Board or Committee, it can be assumed that the members of the Board or Committee, as the case may be, consider that the State which is eligible to have its vote suspended for nonpayment of quota was not able

to make the payments for reasons beyond its control and is therefore permitted to vote.

Under general principles of administrative and international law, a practice which does not contradict a written norm has the force of law until it is either modified by a change in that practice or the publication of the pertinent written regulations. In the case of Article 24 and the derivative provisions in the Rules of Procedure of the Board and Executive Committee, there is nothing in the text which directly contradicts this practice. Therefore, up until now, the practice has served as IICA's procedure for applying Article 24.

It should be noted, however, that the current practice or procedure is incomplete. Because no Member State has ever objected to the exercise of the vote by a Member State more than two years in arrears, there is no history of practice to guide the Institute on the following questions: When must the objection be made? In the Credentials Committee? In the Preparatory Session? Before the first vote? Can a Member State challenge a vote of the Board or of the Executive Committee after it has been taken if it did not object prior to the vote? Should States that have lost the vote be considered as members of the deliberative bodies for the purpose of considering the number of States necessary to form a quorum? Should States that have lost the right to vote be included in computing the total number of Member States for determining the number which constitutes a majority of the Member States or a two-thirds majority of the Member States under the rules of the Board and Committee? If Article 24 is to be applied, there is a need for regulations which answer those questions.

C. Whether A Country More Than Two Years in Arrears Can Vote on Issues Pertaining to the Suspension of its Vote

If one takes the position that suspension of the vote is automatic for any country that is more than two years in arrears it is clear that the country has lost its vote and cannot vote in the Board's decision on whether, notwithstanding the country's arrears, it may be permitted to vote. If, on the other hand, one takes the position that Article 24 requires a prior hearing in which the country has a chance to explain why it is in arrears prior to losing its vote, then it may vote in the procedure.

D. Whether A Country That Has Lost Its Right to Vote Should Be Considered Present for Purposes of Determining a Quorum or for Determining the Number of Votes Needed to Constitute a Majority or Qualified Majority Under the Institute's Rules

In the absence of explicit regulations on the application of Article 24 and its impact on the meetings of the Board and Committee, there are no precise answers to these questions. A plain meaning analysis of the related provisions in

the IICA Convention and the Rules of Procedure of the Board and Committee on one hand, and a purposive analysis of those provisions on the other, support opposite conclusions.

1. Plain Meaning Analysis

A plain meaning analysis suggests that a Member State whose right to vote has been suspended should be included for determining quorum requirements and the number of States that constitute a majority or qualified majority in the voting process. Article 7 of the IICA Convention states that "all the Member States" are members of the Board. Article 24 permits suspension of the right to vote, not suspension of the right to membership. Thus, even a member that has lost its right to vote still remains a member of the Board. Moreover, Article 11 of the IICA Convention states: "The presence of the representatives of a majority of the Member States shall constitute a quorum," and Article 42 of the Board's Rules states that a majority of the Board's members shall constitute a quorum. Similarly, Article 8 of the IICA Convention and Article 71 of the Board's Rules of Procedure describe the voting requirements for Board decisions in terms of a majority vote of the "members" or of "the members present," or of the "Member States," not a majority of the Member States, members, or members present "with the right to vote." Thus, in the absence of further clarification in those provisions, it follows that a Member State is a member of the Board, regardless of whether it has the right to vote, and should be included for purposes of computing quorum requirements and the number of States necessary to constitute a majority or qualified majority of the Board's members⁶.

2. A Purposive Analysis

Use of purposive statutory analysis, however, which is an equally respected method of statutory interpretation, yields the opposite conclusion -- i.e., that Member States should not be included in determining quorum requirements and the necessary number of States necessary to constitute a majority or qualified majority vote.⁷ Under purposive analysis, the argument is as follows: The purpose of a quorum requirement is to assure that there are a sufficient number of countries

⁶ A similar plain meaning analysis can be made for determining satisfaction of quorum and voting requirements for the Executive Committee based on Article 15 of the IICA Convention and the corresponding provisions in the Executive Committee's Rules.

⁷ Purposive analysis looks beyond the plain meaning of the text of a statute in order to determine the legislative intent. Under that method of analysis, the statute must be construed in accordance with its apparent purpose, as reflected in legislative history, contemporaneous interpretation, and common sense.

in the meeting to take a vote. Article 71 of the Board's Rules of Procedure states that "the decisions of the Board are taken by a majority of the members present, unless the Convention or these Rules of Procedure provide otherwise." Thus, to include Member States without voting rights in the quorum makes little sense and distorts the intended purpose of the quorum requirement producing the institutional paralysis described in Section A(3) above. Moreover, Article 7 of the Convention states that each Member of the Board shall have one vote. Because the purpose of membership is to vote in the decisions of the Institute, a Member State that loses that right implicitly loses its right to membership for any act that relates to the voting process. Thus, under a purposive analysis, one could conclude that non-voting Members are not members for purposes of determining the number of States necessary to constitute a quorum or for determining the number of States that constitute a majority or qualified majority.

III. CONCLUSION

From the following analysis, the following conclusions are evident:

1. Although Article 24 is open to conflicting interpretations, there is considerable support for the position that Article 24 does not require automatic suspension of the right to vote of a Member State that is more than two years in arrears without a prior hearing. That support is found in the very language of the statute, logic, and the democratic principle that the fundamental right to vote should not be removed without due process.

2. Notwithstanding past practice in the Institute regarding the application of Article 24, there are a number of legal questions outstanding as to how that Article should be applied and the impact it will have on other Rules of the Institute -- particularly those for determining quorum requirements and the number of Member States necessary to constitute a majority or qualified majority of the members in the Board and Committee.

3. The fundamental importance of the voting right to each and every Member State and to the democratic integrity of the Institute suggests that no action should be taken to suspend the vote of a Member State without assurances of due process, and one essential element of due process is clarity in the rules governing the removal or suspension of fundamental rights.

4. It would be unfair to suspend the vote of a Member State without some prior notice that the practice in the Institute has changed, without giving that State sufficient prior notice to prepare its defense, and without giving that State notice of the rules to be applied.

5. As part of the mandate to implement measures to assure prompt payment of quotas and arrearages, the Director General should prepare for presentation to the next Executive Committee proposed rules for the application of Article 24 of the Convention. Those Rules should be incorporated into the Rules of the Board and Committee. Among the issues they should address are the following:

- (a) Is suspension of voting rights automatic or is it to occur only after a hearing on the matter before the Board or Committee or a sub-committee of either formed for the purpose of considering the suspension issue?
- (b) If suspension is to be automatic, how and when is notice to be given to the Member State that its right to vote has been suspended? Similarly, if suspension is not to be automatic, how and when should a Member State be notified that there will be a hearing on the suspension of its voting rights at the next meeting of the Board or Committee, as the case may be?
- (c) If the vote is to be suspended automatically, where and when should the proceeding take place for determining whether a Member State whose vote has been suspended automatically shall be permitted to vote? Should it be in the Preparatory Session? The Credentials Committee? The First Plenary Session before any vote is taken? Similarly, if the vote is not automatically suspended, where will the hearing for determining whether to suspend the vote take place? The Preparatory Session? The Credentials Committee? The First Plenary Session before any vote is taken?
- (d) What considerations or criteria should be used to determine whether a Member State that is two years in arrears should be permitted to vote? What are examples of "circumstances beyond the control of that State" as contemplated by the Convention for permitting a State that is more than two years in arrears to vote?
- (e) Are voting rights restored automatically once payment is made, or is there the need for notice or a procedure? If so, what is the notice and procedure required?
- (f) Will a Member State whose vote has been suspended be counted for determining the number of members necessary to constitute a

quorum? A majority of the members? A qualified majority of the members? The number of members present?⁸

If the Member States are intent on applying Article 24 as a mechanism for assuring prompt payment of quotas and arrearages, the drafting and approval of Regulations addressing these questions should be a priority of the Institute over the next year. To facilitate that process, we are attaching draft Regulations and a draft Resolution for the Executive Committee's consideration.

⁸ Indeed, the number of questions over the application of Article 24 that cannot easily be answered unless the Institute adopts regulations for that purpose suggests that the State Parties to the Convention never intended Article 24 to be self-executing. Thus, Article 24 is like a non-self-executing treaty, which under the international law of treaties, does not go into force until the contracting parties adopt the necessary implementing legislation.

Inter-American Institute for Cooperation on Agriculture
Headquarters / P.O. Box: 55-2200 San Jose,
Vazquez de Coronado, San Isidro 11101, Costa Rica
Phone: (506) 2216-0222 / Fax: (506) 2216-0233
Web site: www.iica.int