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DEVELOPMENT AND INTERNATIONAL ECONOMIC CO-OPERATION

Draft constitution of a specialized agency for industrial development

Note by the Secretary-General

1. The Second General Conference of the United Nations Industrial Development Organization, held at Lima from 12 to 26 March 1975, recommended in the Lima Declaration and Plan of Action on Industrial Development and Co-operation (A/10112, annex, chap. IV, paras. 69 and 70) that UNIDO be converted into a specialized agency and, to that end, requested the Secretary-General of the United Nations, in consultation with the Executive Director of UNIDO, to submit to the General Assembly at its seventh special session through the Economic and Social Council, draft statutes of a specialized agency for industrial development.
2. Pursuant to that request, the text of a draft constitution of the proposed United Nations Industrial Development Organization was submitted to the Economic and Social Council at its fifty-ninth session (E/5711). By its resolution 1953 (LIX) of 25 July 1975, the Council took note, *inter alia*, of the Lima Declaration and Plan of Action and of the draft constitution, and decided to transmit them, together with the comments and suggestions made thereon at its fifty-ninth session, to the General Assembly at its seventh special session and at its thirtieth regular session; it also drew the attention of the Assembly at its special session to the recommendation concerning the conversion of UNIDO into a specialized agency of the United Nations.
3. The text of the draft constitution submitted to the Economic and Social Council, incorporating some editorial changes, is appended.

* A/10190.

APPENDIX

Draft Constitution of the United Nations Industrial Development Organization

The States Parties to this Constitution,

In conformity with the Charter of the United Nations,

Mindful of the principles contained in resolutions 3201 (S-VI) and 3202 (S-VI) of the United Nations General Assembly and in the Lima Declaration and Plan of Action on Industrial Development and Co-operation,

Declaring that:

It is necessary to establish a just and equitable economic and social order to be achieved through rational and equitable international economic relations and the encouragement of the necessary structural changes in the world economy,

There is a close interrelationship between the prosperity of the developed countries and the growth and development of the developing countries, and the prosperity of the international community as a whole depends upon the prosperity of its constituent parts,

International co-operation for development is the shared goal and common duty of all countries, and therefore the political, economic and social well-being of present and future generations depends more than ever on co-operation among all members of the international community on the basis of sovereign equality and the removal of the disequilibrium that exists between them,

Industrialization is a dynamic instrument of growth essential to the rapid economic and social development of the developing countries, to the improvement of the living standards and the quality of life of the people in those countries, and to the introduction of an equitable economic and social order,

Any process of industrialization must conform to the broad objectives of self-sustaining and integrated socio-economic development, and all countries have the sovereign right to make the necessary changes to ensure the just and effective participation of their peoples in industry and to share in the benefits deriving therefrom,

It is essential to promote industrialization through concerted measures at the national, regional and international levels with a view to modernizing the economies of the developing countries,

All countries, irrespective of their social and economic systems, are determined to promote the common welfare of their peoples and to maintain peace and security by individual and collective actions to secure for the developing countries their rightful share in total world industrial production,

Agree to the present Constitution and hereby establish, within the terms of Chapter IX of the Charter of the United Nations, a specialized agency to be known as

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the United Nations Industrial Development Organization (UNIDO) (hereinafter called the "Organization"), which shall play the central role in and be responsible for reviewing and promoting the co-ordination of all activities of the United Nations system in the field of industrial development, in conformity with the responsibilities of the Economic and Social Council under the Charter of the United Nations and with the applicable relationship agreements.

CHAPTER I

OBJECTIVES AND FUNCTIONS

Article 1

Objectives

The objectives of the Organization shall be:

- (a) To develop new concepts and approaches in respect of industrial development on a global scale;
- (b) Subject to the provisions of the Charter of the United Nations, to co-ordinate the activities of the United Nations system in the field of industrial development;
- (c) To furnish, as appropriate, assistance to the developing countries in the promotion and acceleration of their industrialization, in particular in the development, expansion and modernization of their industries;
- (d) To provide a forum and to act as an instrument to serve the developing countries and the industrialized countries in their contacts, consultations and negotiations directed towards the industrialization of the developing countries.

Article 2

Functions

In the fulfilment of its objectives, the Organization, using its own funds and resources as well as those made available by other organizations and agencies, shall:

- (a) Carry out studies and surveys with a view to developing new lines of action directed towards harmonious and balanced industrial development;
- (b) Encourage and assist in the development of an integrated and interdisciplinary approach towards the accelerated industrialization of the developing countries;
- (c) Assist the developing countries in the establishment and operation of industries, including agro-related and basic industries, to ensure the utilization

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of locally available natural resources and the production of goods for domestic and export markets, as well as contribute to the self-reliance of these countries;

(d) Develop special measures designed to promote co-operation among developing countries and to assist the least developed among them;

(e) Collect and monitor on a selective basis, analyse and generate for the purpose of dissemination information on all aspects of industrial development on global, regional and national, as well as on sectoral levels;

(f) Encourage and promote collective action directed towards the establishment and strengthening of industrial, business and professional associations, and similar organizations related to industrial development;

(g) Promote, encourage and assist in the development, adaptation, transfer and use of industrial technology, with due regard for the socio-economic conditions and the specific requirements of the industry concerned;

(h) Promote and encourage the development and use of planning techniques, and assist in the formulation of development, scientific and technological programmes and plans for industrialization;

(i) Assist in the establishment and operation of institutional infrastructure for the provision of regulatory, advisory and developmental services to industry;

(j) Organize industrial training programmes;

(k) Advise on and assist in the exploitation, conservation and transformation of natural resources for the purpose of furthering the industrialization of developing countries;

(l) Assist the developing countries in obtaining external financing for specific industrial projects;

(m) Propose conventions and agreements;

(n) Make recommendations in respect of industrial development matters;

(o) Provide, wherever necessary, pilot and demonstration plants for accelerating industrialization in particular sectors;

(p) Take all necessary and appropriate action to implement the principles set forth in the Preamble and in article 1.

CHAPTER II

MEMBERSHIP

Article 3

Members

1. States Members of the United Nations or of a specialized agency or of the International Atomic Energy Agency may become Members of the Organization by becoming parties to this Constitution in accordance with Article 21.

2. Other States may become Members of the Organization by becoming parties to this Constitution in accordance with paragraph 3 of Article 21, after their membership has been approved by the Conference, by a two-thirds majority, upon the recommendation of the Board.

3. States not wishing to assume the full obligations of membership or territories whose peoples have not yet attained a full measure of self-government may become Associate Members of the Organization on being approved by the Conference, by a two-thirds majority, upon the recommendation of the Board. Except as otherwise provided in this Constitution, the nature and extent of the rights and obligations of Associate Members shall be determined by the Conference. Unless otherwise indicated, the term "Member" in this Constitution shall not refer to Associate Members.

Article 4

Suspension

A Member or Associate Member that has persistently violated this Constitution may be suspended from the exercise of the rights of membership by the Conference, by a two-thirds majority, upon the recommendation of the Board.

Article 5

Withdrawal

1. A Member may withdraw from the Organization by depositing an instrument of denunciation of this Constitution with the depositary. An Associate Member may withdraw by giving notice to that effect to the Director-General.

2. Withdrawal from the Organization shall not affect any existing obligations of a Member or Associate Member, including those under Article 12 for the fiscal period in which that Member or Associate Member withdraws.

CHAPTER III

ORGANS

Article 6

1. The principal organs of the Organization shall be:
 - (a) The Conference;
 - (b) The Industrial Development Board (herein called the "Board");
and
 - (c) The Secretariat.
2. Subsidiary organs may be established as necessary.

Article 7

The Conference

1. The Conference shall consist of representatives of all Members. Associate Members may participate in accordance with the provisions of this Constitution and the rules of procedure of the Conference.
2. The Conference shall meet in regular sessions every two years unless it decides otherwise. It shall also meet in such special sessions as may be convened by the Director-General at the request of the Board or of a majority of the Members.
3. In addition to exercising other functions specified in this Constitution, the Conference shall:
 - (a) Determine the guiding principles and policies of the Organization;
 - (b) Consider reports of the Board and of the Director-General and give directives to them in regard to matters upon which action may be deemed desirable;
 - (c) Propose to the Members and Associate Members conventions or agreements with respect to matters within the competence of the Organization;
 - (d) Make recommendations to Members and Associate Members and to international organizations with respect to matters within the competence of the Organization;
 - (e) Take any other appropriate action to further the objectives of the Organization.

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4. The Conference may delegate to the Board such of its powers and functions as it may consider desirable, excepting those under subparagraphs 3 (a) and (b) above.

5. The Conference shall adopt its own rules of procedure, which may include provisions for taking decisions without a meeting.

6. Each Member shall have one vote in the Conference. Decisions shall be made by a simple majority unless otherwise specified in this Constitution or in the rules of procedure of the Conference, or as may be decided by a simple majority of the Conference. All majorities specified herein shall be calculated by reference to those Members voting.

7. A Member in arrears in the payment of its assessed contributions under Article 12 shall have no vote in the Conference if the amount of its arrears equals or exceeds the amount of such contributions due from it for the preceding two full fiscal years. The Conference may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member.

Article 8

Industrial Development Board

1. The Board shall consist of sixty Members of the Organization elected by the Conference, which shall give due regard to the equitable representation of geographical areas.

2. Members of the Board shall hold office from the close of the session of the Conference at which they were elected until the close of the regular session of the Conference four years thereafter, except that the members elected at the first session shall hold office from the time of such election and one half shall hold office only until the close of the second regular session. Members of the Board may be re-elected.

3. The Board shall hold one regular session a year. Special sessions of the Board may be convened by the Director-General at the request of a majority of its members. Sessions shall be held at the seat of the Organization, unless otherwise determined by the Board.

4. In addition to exercising other functions specified in this Constitution or delegated to it by the Conference, the Board shall:

- (a) Acting under the authority of the Conference, review the implementation of the approved programme of work and corresponding budgetary estimates;
- (b) Report to the Conference at each regular session on the activities of the Board;

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- (c) Request Members and Associate Members to furnish information on their activities related to the work of the Organization;
- (d) In accordance with the decisions of the Conference and having regard to circumstances arising between sessions, authorize the Director-General to take such measures as it deems necessary to meet unforeseen events, with due regard to the functions and financial resources of the Organization;
- (e) If the office of Director-General becomes vacant between sessions of the Conference, appoint an Acting Director-General to serve until the next regular or special session of the Conference;
- (f) Prepare the provisional agenda for the Conference;
- (g) Undertake such other functions as are authorized by the Conference.

5. The Board shall adopt its own rules of procedure.

6. Each member of the Board shall have one vote. Decisions shall be made by a simple majority unless otherwise specified in this Constitution or in the rules of procedure of the Board, or as may be decided by a simple majority of the Board. All majorities specified herein shall be calculated by reference to those members voting.

7. The Board shall invite any Member not represented on the Board and may invite any Associate Member to participate without vote in its deliberations on any matter of particular concern to that Member or Associate Member.

Article 9

The Secretariat

1. The Secretariat shall comprise a Director-General and such staff as the Organization may require.

2. The Director-General shall be appointed by the Conference /, upon the recommendation of the Board, / for a period of four years and shall be eligible for reappointment. He shall be the chief administrative officer of the Organization.

3. Subject to general or specific directives of the Conference or the Board, the Director-General shall have the over-all responsibility and authority to direct the work of the Organization.

4. The Director-General shall act in that capacity at all meetings of the Conference and of the Board and shall perform such other functions as are entrusted to him by these organs. He shall prepare an annual report on the activities of the Organization and shall submit to the Conference and the Board such other reports as may be required.

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5. In the performance of their duties the Director-General and the staff shall not seek or receive instructions from any Government or from any other authority external to the Organization. They shall refrain from any action that might reflect on their position as international officials responsible only to the Organization. Each Member and Associate Member undertakes to respect the exclusively international character of the responsibilities of the Director-General and the staff and not to seek to influence them in the discharge of their responsibilities.

6. The staff shall be appointed by the Director-General under regulations established by the Conference. The conditions of service of staff shall conform as far as possible to those of the United Nations. The paramount consideration in the employment of the staff and in determining the conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity. Due regard shall be paid to the importance of recruiting staff on as wide a geographical basis as possible.

CHAPTER IV

PROGRAMME OF WORK AND FINANCIAL MATTERS

Article 10

Expenses of delegations

Each Member and Associate Member shall bear the expenses of its own delegations to the Conference, to the Board and to any other organs on which it may be represented.

Article 11

Programme and budget

1. No later than two months before each regular session of the Conference, the Director-General shall transmit to the Board a draft programme of work and corresponding budgetary estimates for a period starting with the fiscal year following the session of the Conference and ending with the fiscal year during which the following regular session of the Conference is to take place, as well as proposed appropriations for the first fiscal year of that period.

2. The Board shall examine this draft programme of work and corresponding budgetary estimates, and these proposed appropriations, and transmit them, with such recommendations as it considers appropriate, to the Conference.

3. The Conference shall, after considering the draft programme of work and corresponding budgetary estimates and the proposed appropriations together with the recommendations of the Board thereon, approve the programme of work and corresponding budgetary estimates for the specified period, as well as the appropriations for the first fiscal year thereof. Such decisions shall be taken

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by a two-thirds majority, provided that the approval of the programme of work and the corresponding budgetary estimates shall also require the affirmative vote of Members that are to contribute, through contributions assessed or voluntarily pledged without restrictions, at least one half of the resources to be spent by the Organization during the period concerned.

4. Before the beginning of any fiscal year for which the Conference has not approved appropriations, the Board shall approve, by a two-thirds majority, after considering proposals submitted to it by the Director-General, appropriations for that year, on the basis of the approved programme of work and corresponding budgetary estimates, making only such adjustments in respect of the approved estimates as are justified by:

- (a) Changes in price levels and currency fluctuations;
- (b) Developments subsequent to the session of the Conference at which the programme was approved that may affect the implementation of that programme, provided that any adjustments due to such developments may not exceed by more than 10 per cent the approved estimates.

5. Budgetary estimates and appropriations shall relate to all expenditures to be financed from assessed and from unrestricted voluntary contributions as well as from other income.

Article 12

Assessed contributions

Expenditures, in so far as not covered by unrestricted voluntary contributions or other income, shall be borne by the Members and the Associate Members, as apportioned in accordance with respective scales of assessments adopted by the Conference by a two-thirds majority.

Article 13

Voluntary contributions

Subject to the financial regulations of the Organization and to any general guidelines the Board may formulate, the Director-General may accept gifts, bequests and subventions made to the Organization by Governments, public and private institutions, associations and private persons, provided that the conditions attached to such gifts, bequests or subventions are consistent with the objectives and policies of the Organization. The Director-General shall administer these voluntary contributions in accordance with the financial regulations.

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Article 14

Industrial Development Fund

In order to increase the resources of the Organization and to enhance its ability to meet promptly and flexibly the needs of developing countries, there shall be established an Industrial Development Fund which will be financed through voluntary contributions. The Director-General shall administer this Fund in accordance with the financial regulations of the Organization.

Article 15

Loans

Subject to rules and limitations determined by the Conference, funds may be borrowed by the Organization, provided that such loans do not impose any liability on Members and Associate Members.

CHAPTER V

CO-OPERATION AND CO-ORDINATION

Article 16

Relations with the United Nations

The Organization shall be brought into relationship with the United Nations as one of the specialized agencies referred to in Article 57 of the Charter of the United Nations. Any agreements concluded in accordance with Article 63 of the Charter shall require the approval of the Conference, by a two-thirds majority, upon the recommendation of the Board.

Article 17

Relations with other organizations

1. The Director-General may, with the approval of the Board and subject to guidelines established by the Conference:

- (a) Enter into agreements establishing appropriate relationships with other organizations of the United Nations system and with other intergovernmental and governmental organizations;
- (b) Establish appropriate relations with non-governmental and other organizations the work of which is related to that of the Organization.

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2. Subject to such agreements and relations, the Director-General may establish working arrangements with such organizations.

CHAPTER VI

LEGAL MATTERS

Article 18

Privileges and immunities

1. The Organization shall enjoy in the territory of each of its Members and Associate Members such legal capacity and such privileges and immunities as are necessary for the exercise of its functions and for the fulfilment of its purposes.

2. Representatives of Members and Associate Members, the Director-General and the staff of the Organization shall enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connexion with the Organization.

3. The legal capacity, privileges and immunities referred to in this Article shall be as defined in the Convention on the Privileges and Immunities of the Specialized Agencies, subject to any modifications set forth in an annex thereto approved by the Board, and in other agreements entered into by the Organization.

Article 19

Settlement of disputes

1. Any question or dispute among Members or Associate Members concerning the interpretation or application of this Constitution that is not settled by negotiation shall be referred to the International Court of Justice, in conformity with the Statute of the Court, unless the parties concerned agree on another mode of settlement.

2. The Conference and the Board are separately empowered, subject to authorization from the General Assembly of the United Nations, to request the International Court of Justice to give an advisory opinion on any legal question arising within the scope of the Organization's activities.

Article 20

Amendments

1. Any Member may propose amendments to this Constitution. Texts of proposed amendments shall be communicated by the Director-General to all Members

and Associate Members at least ninety days in advance of their consideration by the Conference.

2. Amendments shall come into force for all Members and Associate Members when:

- (a) Approved by the Conference by a two-thirds majority, after consideration of observations thereon submitted by the Board;
- (b) Certified copies of the approved amendments having been distributed to the Members by the depositary of this Constitution, two thirds of all Members shall have deposited instruments of acceptance of the amendments with the depositary.

CHAPTER VII

FINAL CLAUSES

Article 21

Signature, ratification and acceptance

1. This Constitution shall be opened as of _____ for signature by all States specified in paragraph 1 of Article 3, and shall remain open for signature by such States until the day of its entry into force.

2. States that have signed this Constitution may deposit instruments of ratification.

3. States specified in paragraph 1 of Article 3 that have not signed this Constitution, as well as States approved for membership pursuant to paragraph 2 of that Article, may deposit instruments of acceptance.

Article 22

Entry into force

1. This Constitution shall enter into force when eighty States have deposited instruments of ratification or acceptance and, having met, have notified the depositary that they have agreed to share among themselves the totality of the expenditures of the Organization in accordance with a scale of assessments to apply during the first _____ fiscal year(s) of the Organization. The depositary shall convene a meeting of all States that have deposited instruments of ratification or acceptance, within three months of the receipt of the eightieth such instrument.

2. For States that deposit instruments of ratification or acceptance subsequent to the entry into force of this Constitution, it shall enter into force on the date of such deposit.

Article 23

Transitional arrangements

The States that become parties to this Constitution at the time of its entry into force pursuant to paragraph 1 of Article 22 shall establish a Preparatory Commission, which shall act in accordance with Annex I of this Constitution until the first session of the Conference is convened.

Article 24

Reservations

No reservations may be made in respect of this Constitution.

Article 25

Depositary

1. The Secretary-General of the United Nations shall be the depositary of this Constitution.

2. In addition to notifying the States concerned, the depositary shall notify the Director-General of all matters affecting this Constitution.

Article 26

Authentic texts

This Constitution shall be authentic in Arabic, Chinese, English, French, Russian and Spanish.

ANNEX I

Preparatory Commission

The Preparatory Commission established under Article 23 of this Constitution shall, as appropriate:

1. Prepare for submission to the Conference proposals concerning the following instruments:
 - (a) Rules of procedure of the Conference;
 - (b) Staff regulations;
 - (c) Financial regulations, including provision regarding the acceptance of voluntary contributions and the borrowing of funds;
 - (d) Guidelines for agreements between the Organization and other organizations of the United Nations system and other intergovernmental and governmental organizations;
 - (e) Guidelines for relations with non-governmental and other organizations;
 - (f) The rights and obligations of Associate Members;
 - (g) On the basis of proposals submitted by the Executive Director of the United Nations Industrial Development Organization established by resolution 2152 (XXI) of the United Nations General Assembly, the draft programme of work and corresponding budgetary estimates for the initial fiscal period of the Organization, as well as proposed appropriations for the fiscal year in which the first session of the Conference is to be convened and for the first fiscal year thereafter.
2. Prepare for submission to the Board proposals concerning the following instruments:
 - (a) Rules of procedure of the Board;
 - (b) An appropriate annex to the Convention on the Privileges and Immunities of the Specialized Agencies, in accordance with Article X of the Convention and paragraph 3 of Article 18 of this Constitution.
3. Take provisional action, until the organs competent in accordance with this Constitution have acted thereon, in respect of:
 - (a) A relationship agreement with the United Nations, in accordance with Article 16, as well as any subsidiary agreements or arrangements in respect of the staff of the Organization;

(b) Relationship agreements with specialized agencies and other intergovernmental organizations, in accordance with Article 17.

4. Convene the first session of the Conference no later than nine months after the entry into force of this Constitution.

ANNEX II

Transitional privileges and immunities

The Convention on the Privileges and Immunities of the United Nations shall, in respect of each State party to that Convention that becomes a Member or Associate Member of the Organization, apply to the Organization, until thirty days after such State has notified the Director-General that that Convention shall cease to apply to the Organization or until the date on which the Convention on the Privileges and Immunities of the Specialized Agencies becomes applicable by such State in respect of the Organization, whichever event occurs sooner.
