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Report of the Secretary-General

Part II: Administrative and statutory matters

(f) Situation of amendments to the Statutes and the Financing Rules

I. Introduction

1. Since the Statutes of the World Tourism Organization and its Annex (the Financing Rules) were adopted by the Extraordinary General Assembly of IUOTO and entered into force on January 1975 in accordance with Article 36 of the Statutes, the Assembly has adopted seven amendments to the Statutes and three to the annexed Financing Rules in accordance with Article 33 of the Statutes.

2. Out of the ten amendments to the Statutes and the Financing Rules adopted so far by the General Assembly, only the amendment to Article 38 of the Statutes that included Arabic as one of the official languages of the Organization has achieved the necessary number of ratifications and has entered into force in accordance with the statutory requirement mentioned above. It took twenty-nine years to obtain the required number of ratifications for the amendment to enter into force on 9 May 2008.

3. The texts of adopted amendments that are pending ratification by two-thirds of the Members are reproduced in the Annex enclosed in this document.

II. Current situation of amendments to the Statutes and the Financing Rules

4. Article 33(3) of the Statutes requires, for adopted amendments to enter into force, that two-thirds of the member States notify the Depositary Government of their approval of such amendment.

5. Since the Organization currently has 156 Full Members, amendments must be ratified by 104 Members. The list of amendments pending ratification with the number of ratifications is enclosed in the Annex to this document, together with a more detailed list that provides an overview for Members on what amendments have not been ratified by them to date.

6. Adopted amendments to two articles of the Statutes, 14 and 37, and to paragraphs 4 and 12 of the Financing Rules are being applied provisionally pending their entry into force by virtue of a decision



of the General Assembly, which considered their immediate application as necessary for the correct functioning of the Organization.

7. Notwithstanding that none of the amendments that are being provisionally applied calls into question the fundamental structure of the Organization, the essential principles on which it is based, its budgetary equilibrium, the apportionment of areas of responsibility among its organs or the definition of the various categories of membership and that their immediate application was necessary and urgent for the correct operation of the Organization, it should be recalled that the renewed use of such a procedural facility would run counter to well-established principles of international law. As a matter of principle, any constitutional development should be consistent with the provisions of the Organization's constituent instrument as well as with general international law and with the Convention of Vienna on the Law of Treaties (1969). These principles have been reaffirmed by the General Assembly in several occasions through resolutions 61(III) or 521(XVIII) among others, underlining the necessity to strictly follow the process of amendment and ratification established in the Statutes.

8. The number of pending ratifications necessary for articles being provisionally applied to enter into force in accordance with Article 33(3) of the Statutes is relatively low as can be seen in the tables annexed to this document and their ratification by the required number of Members will bring legal security to their current application. The Secretary-General wishes therefore to urge Members who have not yet done so, to take all necessary measures to ratify amendments to Articles 14 and 37 of the Statutes and to paragraphs 4 and 12 of the Financing Rules.

III. The importance of ratifying amendments to the Statutes and the Financing Rules

9. As expressed several times by the General Assembly (resolutions 265(VIII), 425 (XIV) or 466 (XV) among others), the lengthy process of amendment to the Statutes does not allow the adaptation of the Organization to the actual will of its organs in a timely manner. Both the Executive Council and the General Assembly have urged Members in the past to ratify amendments to the Statutes in order to normalize the Organization's operation and foster awareness of the importance of tourism among the internal bodies of member States through giving clear expression to the will of the Members.

10. The General Assembly, concerned about the slow pace of ratification of amendments and the hindrance it implies for the smooth running of the Organization, also requested the Secretary-General to remind Members about the importance of timely ratification of amendments [resolution 170 (VI)].

IV. The procedure for ratifying amendments to the Statutes and the Financing Rules.

11. In accordance with Article 33.3 of the Statutes, Member States wishing to ratify amendments to the Statutes and the Financing Rules have to notify the Depositary of the Statutes of the Organization (the Ministry of Foreign Affairs and Cooperation of Spain) of their acceptance, approval, adhesion or ratification of the amendment by the competent authority through their established internal legal mechanism.

V. UNWTO Basic Documents

12. As part of the constitutional and legal development of the Organization, the Secretariat has been revising UNWTO Basic Documents in order to release the fourth edition of *UNWTO Basic Documents*, the last edition having been published in 1994.

13. This new edition brings together in three volumes essential documents concerning the governance of the World Tourism Organization, as requested by the Executive Council in Madrid, at its seventh session, [decision 19 (VII)].

14. The first volume (Volume I) already published, is being presented and distributed to the Members on the occasion of the Assembly. This volume, updated as of March 2013, provides a general introduction to the Organization's legal framework, role and functions. It contains the Statutes, the rules of procedure of UNWTO's governing bodies and main committees, and the most significant agreements concluded with the host country of the Organization's headquarters, Spain. In addition, it also includes the most important documents related to the status of the UNWTO as a specialized agency of the United Nations.

15. The Secretariat has also taken the opportunity of this update to revise and improve the quality of the translations from the original texts in order to avoid language inconsistencies and to harmonize the terminology.

16. Volume II will contain the Staff Rules and Regulations and Volume III will comprise the Financial Regulations, the Formula for fixing the contributions of member States and the Detailed Financial Rules. Both volumes are currently being produced and will be published in 2014.

VI. Actions to be taken by the General Assembly

17. The General Assembly is requested:

- (a) To take note of the report of the Secretary-General on the situation of amendments to the Statutes;
- (b) To express its concern at the slow pace of constitutional development that hampers the smooth operation of the Organization;
- (c) To call upon member States to do everything in their power to ratify all the amendments to the Statutes and the Financing Rules contained in document A/20/5(II)(f) as soon as possible;
- (d) To request the Secretary-General to report systematically to the General Assembly on the situation of amendments to the Statutes and the Financing Rules;
- (e) To reaffirm, in the adoption of any future amendment to the Statutes or the Financing Rules, the need to strictly comply with the procedure for amendment and entry into force established in Article 33 of the Statutes;
- (f) To further request the Secretary-General to explore the practice applied by International Organizations in the ratification of amendments to constituent treaties that could be envisaged at UNWTO to improve the current situation of adopted amendments that have not yet entered into force and to present proposals to the Executive Council for analysis and submission of recommendations to the next General Assembly session; and
- (g) To welcome the new edition of *UNWTO Basic Documents*.